

Kyshakevych, Lev (Ukraine)

[Original: English]

Statement of qualifications

This statement is prepared in accordance with article 36, paragraph 4 (a) of the Rome Statute of the International Criminal Court and paragraph 6 of the Resolution of the Assembly of States Parties on the procedure for the nomination and election of Judges, the Prosecutor and Deputy Prosecutors of the International Criminal Court (ICC-ASP/3/Res.6).

Ukraine hereby nominates Judge Lev Yuriyovych KYSHAKEVYCH as a candidate for the position of the Judge of the International Criminal Court for the elections to be held in December 2026 during the 25th session of the Assembly of States Parties (ASP).

(a) Information regarding the candidate's compliance with the requirements set out in article 36, paragraph 3 (a), (b), and (c) of the Rome Statute

Judge L. Kyshakevych fully meets the requirements for a candidate as defined by article 36, paragraph 3 of the Rome Statute.

L. Kyshakevych is a judge of high moral character, impartiality, and integrity, meeting the requirements established in Ukraine for appointment to the highest judicial post – Judge of the Supreme Court.

Judge L. Kyshakevych possesses recognized competence in criminal and procedural law, as well as extensive experience as a judge and prosecutor.

L. Kyshakevych has over thirty years of professional experience in the field of criminal law and procedure. Specifically, he has served in the prosecution authorities of Ukraine, conducting public prosecutions in criminal cases, served as a judge of the local court and of the Criminal Cassation Court within the Supreme Court. Currently, L. Kyshakevych holds the position of the judge of the Grand Chamber of the Supreme Court, by participating in the development of the Supreme Court's binding legal positions, which confirms the candidate's highest level of competence in criminal law and procedure.

In 2024, Judge L. Kyshakevych authored a judgment of the Grand Chamber of the Supreme Court in criminal proceedings against individuals convicted of crimes related to the planning, preparation, initiation, and waging of a war of aggression. This judgment set a judicial precedent for cases involving crimes against peace, human security, and the international legal order. Its preparation required profound knowledge of national law as well as international criminal law, international humanitarian law, and the case law of international tribunals. This demonstrates Judge L. Kyshakevych's expertise in legal matters falling within the subject-matter jurisdiction of the ICC, particularly regarding the crime of aggression and related international legal assessments. Furthermore, Judge L. Kyshakevych's work on this judgment demonstrates his ability to objectively assess and analyze acts that pose a threat to international peace and security, to apply the norms of international humanitarian law and international criminal law, and to formulate legal conclusions in cases of exceptional public and international significance.

Judge L. Kyshakevych is the Chair of the Ethics Council, an independent body whose primary task is to determine whether candidates for the position of a member of the High Council of Justice (HCJ) meet the criteria of professional ethics and integrity. According to the Law of Ukraine "On the High Council of Justice", members of the Ethics Council shall be individuals of impeccable professional reputation, high professional and moral standing, and public authority, who satisfy the criteria of professional ethics and integrity. The election of L. Kyshakevych as Chair of the Ethics Council serves as additional confirmation of his highest moral standards and integrity.

The activities of Judge L. Kyshakevych within the Ethics Council are directly related to the assessment of standards of independence, impartiality, integrity, resilience to external influence, and the ability to act in accordance with the principle of the rule of law. For an ICC judge, such experience is essential, as international criminal justice

requires not only high legal training but also an impeccable professional reputation and the ability to render decisions in politically sensitive cases while maintaining trust in the court as an institution.

The aforementioned competencies demonstrate Judge L. Kyshakevych's proven track record of successful collegial work, which is an essential prerequisite for the effective exercise of a judge's duties in any court, including the International Criminal Court. L. Kyshakevych's professional activities in the Criminal Cassation Court and the Grand Chamber of the Supreme Court involve daily cooperation with other judges on resolving complex legal issues and rendering collegial decisions. His duties as Chair of the Ethics Council involve cooperation with Council members, including international experts. This experience demonstrates his ability to work in a team, consider diverse legal positions, reach balanced joint decisions, and work in an atmosphere of mutual respect, impartiality and shared responsibility.

Holding the position of Head of the Court further demonstrates Judge L. Kyshakevych's organizational experience, ability to ensure the proper functioning of a judicial institution and the efficiency of court procedures. This is significant for the International Criminal Court, as proceedings involving war crimes, crimes against humanity, genocide, or the crime of aggression require not only high-level legal analysis but also efficient management.

Thus, Judge L. Kyshakevych's professional legal experience meets the requirements for a candidate defined by article 36, paragraph 3 of the Rome Statute, as it encompasses many years of experience in the field of criminal justice, the adjudication of complex criminal cases, the application of international standards of justice, participation in the development of legal positions related to crimes against the peace and security of mankind and international legal order, as well as experience in upholding professional ethics, independence, and integrity in the administration of justice. Taken together, this experience demonstrates that Judge L. Kyshakevych is suitably qualified to administer justice in cases falling within the jurisdiction of the International Criminal Court.

Judge L. Kyshakevych's professional experience is further reinforced by his academic qualifications, holding a Candidate of Legal Sciences degree (PhD in Law). He consistently advances his professional expertise, participates in scientific-practical conferences and professional events addressing contemporary issues of international criminal law, and has undertaken multiple working visits to the International Criminal Court in The Hague. This demonstrates the systematic nature and relevance of knowledge of Judge L. Kyshakevych's of international criminal justice and his suitability to international judicial setting.

Judge L. Kyshakevych is fluent in English and experienced in using it in his professional activities.

(b) Nomination of candidates from the lists provided for in article 36, paragraph 5 of the Rome Statute

Taking into account the extensive experience as a judge and his expertise in criminal law and procedure, Judge L. Kyshakevych is nominated as a candidate on List A.

(c) Information relating to article 36, paragraph 8 (a)(i) to (iii) of the Rome Statute

Judge L. Kyshakevych will represent the civil law legal system and is a male candidate of Ukraine, a member of the Eastern European Region.

(d) Information on legal experience pursuant to article 36, paragraph 8 (b) of the Rome Statute

Judge L. Kyshakevych has over thirty years of professional experience in the field of criminal justice, encompassing work in the prosecution authorities and the courts. This experience is directly relevant to the performance of the duties of a judge of the International Criminal Court, as it combines the practice of criminal prosecution, the adjudication of complex criminal proceedings—particularly those involving violence against women and children—the application of international standards of fair trial, and work on legal issues related to crimes against peace, security of mankind, and the international legal order.

From 1995 to 2004, L. Kyshakevych served in Ukrainian prosecution authorities, where his work was directly related to the practical application of criminal law and criminal procedural law, supporting the prosecution, preparing procedural documents, analysing materials from criminal proceedings, supporting the public prosecution, and ensuring legality at the pre-trial and trial stages. Judge L. Kyshakevych's experience is important

for the work of a judge at the International Criminal Court, as cases falling within the Court's jurisdiction require the evaluation of a large body of evidence and procedural decisions by investigative authorities and the prosecutor, as well as maintaining a balance between the effectiveness of criminal prosecution and the guarantees of a fair trial.

With over 20 years of judicial experience, Lev Kyshakevych has directly administered justice in criminal proceedings, including those involving violence against women and children; examined evidence; evaluated the testimony of parties to the proceedings; rendered decisions on a person's guilt or innocence and the imposition of punishment; and ensured compliance with the procedural rights of the parties. Serving as a trial judge is of particular importance for the training of a judge at the International Criminal Court, as it is at this level that practical skills are developed in handling oral and written evidence, assessing the credibility of testimony, responding to procedural motions filed by the parties, and ensuring the equality of the parties and the immediacy of the trial.

The role of a judge on the Criminal Cassation Chamber of the Supreme Court involves a thorough analysis of complex legal issues, ensuring consistency in judicial practice, assessing significant violations of the right to defense, standards of admissibility of evidences, the reasonableness of judicial decisions, and the compliance of national law enforcement with international standards. It is precisely this level of work that is particularly closely aligned with the duties of an international criminal judge, who, in cases involving the most serious international crimes, must ensure a high standard of reasoning, accuracy in legal classification, and strict observance of the rights of the accused and victims.

As a member of the Grand Chamber of the Supreme Court of Ukraine, Judge L. Kyshakevych contributes to the development of uniform judicial practice and the resolution of the most complex legal issues arising at the intersection of criminal law, criminal procedure, constitutional guarantees, and the state's international obligations. It is particularly important that, in criminal jurisdiction, the Grand Chamber of the Supreme Court reviews court decisions after an international judicial body—whose jurisdiction is recognized by Ukraine—has established that Ukraine violated its international obligations in the court's adjudication of the case. Thus, L. Kyshakevych's work in the Grand Chamber of the Supreme Court is directly linked to the application of international standards of justice, the practice of the European Court of Human Rights, and the harmonization of national law enforcement with international standards. For an ICC Judge, this experience is particularly valuable, as the work of an international court requires the ability to combine different legal traditions, interpret international norms in the context of specific criminal proceedings, and formulate persuasive legal positions in highly complex cases.

(e) Information on the candidate's nationality for the purposes of article 36, paragraph 7 of the Statute

Judge L. Kyshakevych is a citizen of Ukraine and holds no other nationality.

(f) The nomination procedure in accordance with article 36, paragraph 4 (a)(ii) of the Rome Statute

Judge L. Kyshakevych is nominated by the Ukrainian National Selection Commission, established by Decree of the President of Ukraine. The Selection Commission consists of renowned experts in the fields of criminal law, criminal procedure, and international law, who possess high moral character, professional qualifications, and significant experience in their respective fields. The candidates for the selection commission were recommended to the President of Ukraine by the Office of the Prosecutor General, the High Council of Justice, the Ministry of Foreign Affairs of Ukraine, and the Ministry of Justice of Ukraine.

Detailed information regarding the national procedure is provided separately.

(g) Confirmation of the information provided regarding the requirements set forth in article 36, paragraphs 3 (a), (b), (c), and 4(a) of the Rome Statute

The accuracy and truthfulness of the information provided regarding the requirements set forth in article 36, paragraphs 3 (a), (b), (c), and 4 (a) of the Rome Statute have been confirmed by the Chair of the National Selection Commission, Professor Mykhailo Buromenskyi.

(h) Candidate's obligations

Judge Lev Kyshakevych undertakes to be available to begin working full-time when the workload of the International Criminal Court so requires. He will also be available for interviews, as well as for participation in public roundtables and other events.