



Eleventh session

The Hague, 14-22 November 2012

**Election of the Deputy Prosecutor of the
International Criminal Court**

Note by the Secretariat

1. Under the terms of article 42, paragraph 4, of the Rome Statute of the International Criminal Court, and paragraph 36 of Assembly of States Parties resolution ICC-ASP/3/Res.6 on the procedure for the nomination and election of judges, the Prosecutor and Deputy Prosecutors of the Court, the Prosecutor shall nominate three candidates for each position of Deputy Prosecutor to be filled.

2. In a letter dated 4 September 2012, the Prosecutor of the Court transmitted to the President of the Assembly of States Parties her nomination of the following three candidates for the position of Deputy Prosecutor of the Court (see annex):

- (a) Mr Paul Rutledge (Australia);
- (b) Mr James Stewart (Canada); and
- (c) Ms Raija Toiviainen (Finland).

3. The letter included a description of the procedures followed for the selection of candidates; statistics on the selection of candidates (see annex, appendix I); as well as a compilation of statements of qualifications (see annex, appendix II), submitted in accordance with paragraph 37 of the above-mentioned resolution.

4. Under the terms of paragraph 41 of the same resolution, the procedures for the election of the Prosecutor in section E of that resolution shall apply *mutatis mutandis* to the election of any Deputy Prosecutor.

Annex

Letter from the Prosecutor to the President of the Assembly

4 September 2012

Your Excellency,

I have the honour to inform you, in your capacity as President of the Assembly of States Parties to the Rome Statute of the International Criminal Court, that the process of selection of candidates for nomination to the position of Deputy Prosecutor (Prosecutions) has been finalized.

The candidates hereby nominated have been selected from a pool of 120 applicants from States Parties and non-States Parties. The Vacancy Announcement was advertised for nine weeks in accordance with the Court's procedures, from 9 February until 15 April 2012.

Pursuant to article 42, paragraph 3 of the Statute, candidates must be persons of high moral character, be highly competent and have extensive practical experience in the prosecution or trial of criminal cases. The extensive interview process sought to identify candidates who meet these requirements.

After reviewing all of the applications during May and June, the three member screening panel chaired by me selected fifteen candidates for an initial screening interview and a visit to the seat of the Court. Thirteen of these candidates accepted the invitation to participate in the initial screening process. In addition to the extensive screening interview during which the screening panel tested candidates on their legal and managerial skills and capabilities, the candidates met individually for in-depth discussions with senior staff of the Office. All candidates also submitted written responses to the same questions, having been given equal time to access and respond to these questions. Meetings with senior staff were intended to test candidates' interpersonal skills as well as to allow candidates to more freely articulate their vision of the OTP and of the role of the Deputy Prosecutor. These meetings resulted in reports that were shared with the screening panel.

At the conclusion of the initial screening interviews, six candidates were selected for full interviews, which took place on 23-24 July and 14 August 2012. The five member interview panel, which included two persons from outside the OTP, assisted me in further testing the candidates' qualities, abilities and knowledge of the law. The interviews were followed by meetings with a group of Senior Trial Lawyers who also posed a series of legal and other questions and submitted their impressions to me.

Both the panel and the group of Senior Trial Lawyers were unanimous in the view that all candidates were of high caliber, and individually possess strengths and weaknesses. I have carefully considered the views of the panel members as well as those of the Senior Trial Lawyers. Taking into account my vision for the Office and in accordance with article 42, paragraph 4 of the Rome Statute, I have decided to nominate three candidates who possess the requisite experience and qualifications to assist me in running an effective and efficient Office. These are (in alphabetical order): Mr. Paul Rutledge (Australia); Mr. James Stewart (Canada); Ms Raija Toiviainen (Finland). All of them possess the capabilities and qualities of an excellent Deputy Prosecutor and they all fully meet the requirements of the Statute. Anyone of them would be a welcome complement to the Office.

I request, Excellency, that you transmit their names to the Assembly of States Parties for consideration at the upcoming 11th Session in November 2012. Statistics of the total number of applicants as well as the total number of those interviewed are attached to this letter as appendix I. The curricula vitae of the nominees are attached as appendix II (in alphabetical order), for the consideration of the Assembly.

Yours sincerely,

Fatou Bensouda, Prosecutor

Appendix I

Statistics on the selection of candidates for nomination for the position of Deputy Prosecutor (Prosecutions) in the Office of the Prosecutor of the International Criminal Court

A. Statistics of applications received

A total of 120 applications for the position of Deputy Prosecutor (Prosecutions) were received. Below is a breakdown by gender, ratification status of country of nationality, and geographic origin.

Total number of applications received	120			
		<i>% of total</i>	<i>subtotal</i>	<i>% of subtotal</i>
Female applicants	28	(23%)		
Male applicants	92	(77%)		
State Party applicants	78	(65%)		
Females			21	(27%)
Males			57	(73%)
Non-State Party applicants	42	(35%)		
Females			7	(17%)
Males			35	(83%)
African applicants	31	(26%)		
Asian applicants	12	(10%)		
Eastern European applicants	2	(2%)		
Latin-American and Caribbean applicants	11	(9%)		
Western European and other States applicants	64	(33%)		

B. Statistics of short-listed candidates

State Party applicants	15	
African applicants	3	
Asian applicants	3	
Eastern European applicants	1	
Latin-American and Caribbean applicants	1	
Western European and other States applicants	9	
1. Short-list:	15 candidates	(12 male / 3 female)
2. Initial screening process:	13 candidates	(10 male / 3 female)
3. Face to face interview:	6 candidates	(4 male / 2 female)

Appendix II

Alphabetical list of candidates nominated for the position of Deputy Prosecutor (Prosecutions) in the Office of the Prosecutor of the International Criminal Court

Content

	<i>Page</i>
1. Paul Rutledge (Australia).....	4
2. James K. Stewart (Canada).....	11
3. Raija Toiviainen (Finland).....	16

1. Paul Rutledge (Australia)

[Original: English]

Executive summary of relevant experience

1. Management experience at a senior level:
 - (a) Eight years experience as Deputy Director of Public Prosecutions for Queensland (Australia) during which time I acted as Director of Public Prosecutions on occasion. This is a large office with over 300 staff;
 - (b) In recent years, I have worked as advisor to both the Public Prosecutor for Papua New Guinea and the Director of Public Prosecutions for the Solomon Islands, advising them in relation to management matters. I have also acted as Deputy Director of Public prosecutions for the Solomon Islands;
 - (c) Prior to the above I have had extensive experience in "middle" management in both the Queensland and Commonwealth Offices of the Director of Public Prosecutions in Australia; and
 - (d) Amongst other things, in the performance of the above functions I have had substantial experience in
 - (i) Supervision and management of staff;
 - (ii) Design and implementation of practices and procedures;
 - (iii) Management and supervision of case work loads;
 - (iv) Representing my office at government level, in the media and at public and professional forums; and
 - (v) Cost effective management of prosecution resources.
2. Criminal law experience:
 - (a) I have over thirty years experience as a prosecutor;
 - (b) I have appeared in criminal proceedings at every level of the criminal justice system in Australia up to and including the High Court of Australia;
 - (c) I have appeared at the trial and appellate level in the Solomon Islands and Papua New Guinea; and
 - (d) I have extensive experience in prosecuting the most complex trials and appeals.

Curriculum vitae

Personal Particulars

Born: 2 April 1953

Education

1. Honours Degree in Law: University of Queensland 1979.
2. Master of Public and International Law: University of Melbourne 2012.

Professional qualifications

1. Admitted as a Barrister of the Supreme Court of Queensland 30 January 1979.
2. Enrolled as a Barrister of the High Court of Australia 20 March 1985.
3. Previously enrolled as a lawyer in the Solomon Islands.
4. Entitled to Practice as a lawyer in Papua New Guinea.

Present position

Principal Advisor to the Public Prosecutor and Prosecution Team Leader Papua New Guinea.

Employment history (from about date of admission)

1. *Office of the Public Prosecutor Papua New Guinea*, Principal Advisor and Prosecution Team Leader, 1 April 2010 to date.
2. *Office of the Director of Public Prosecutions Queensland*, Deputy Director of Public Prosecutions Queensland, March 2002 to March 2010.
3. *Office of Director of Public Prosecutions*, Solomon Islands, Deputy Director of Public Prosecutions, August 2008 to December 2008, (Note: I was on leave from (2) at this time).
4. *Office of Director of Public Prosecutions*, Solomon Islands, Strategic Management Advisor to the Director, 4 December 2007 to 21 March 2008, (Note: I was on leave from (2) at the this time).
5. *Office of the Director of Public Prosecutions*, Queensland, Consultant Crown Prosecutor, February 1991 to 28 March 2002.
6. *Office of Commonwealth Director of Public Prosecutions*, Brisbane, Principal Legal Officer, June 1988 to February 1991.
7. *Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct (Fitzgerald Inquiry)*, Barrister assisting, May 1987 to June 1988.
8. *Constitution and Legislation Branch*, Solicitor-General's Office, Brisbane, Legal Officer, May 1985 to May 1987.
9. *Prosecutions Branch*, Solicitor-General's Office, Brisbane, Legal Officer and Crown Prosecutor, August 1979 to May 1985.
10. *Public Defender's Office*, Brisbane, Interviewing Officer, June 1978 to August 1979.

I was appointed as Senior Advisor to the Public Prosecutor for Papua New Guinea on 1 April 2010. Immediately prior to that appointment I had held the position of Deputy Director of Public Prosecutions for Queensland, Australia for eight years. During the two year period prior to my appointment as Senior Advisor to the Public Prosecutor in Papua New Guinea I also worked as Senior Advisor and Deputy to the Director of Public Prosecutions for the Solomon Islands for a total of eight months.

I have over 30 years experience in the practice of the criminal law, most of those years as a prosecutor either for the State of Queensland or the Commonwealth of Australia.

I have appeared in court at every level up to and including the High Court of Australia as well as various Tribunals, Inquests and Commission of Inquiry. I have also appeared in the High Court and the Court of Appeal of the Solomon Islands and the National Court of Papua New Guinea.

I have appeared in hundreds of trials and appeals and thousands of other appearances relating to criminal proceedings. For many years I have specialized in particularly complex trials involving a wide range of forensic evidence, including DNA evidence.

In addition to my experience as a prosecutor I have substantial experience in:

- (a) management of staff,
- (b) representing my office participating in interagency, national and international meetings and negotiations,
- (c) providing legal , policy and operational advice,
- (d) training,
- (e) acting as mentor,
- (f) initiating legislative changes, investigation of criminal offences and strategic management advice

My position as Deputy Director of Public Prosecutions in Queensland required me to take a leading role in the management of the Queensland office of DPP with a staff of over 300, a head office and 9 regional offices. In addition, I appeared in the most complex and difficult trials and appeals being dealt with by my office.

I have attached summaries of some of the cases I have prosecuted. These are intended to give the reader some idea of the types of cases I have appeared in. It will be seen that I have prosecuted a wide range of offences and have dealt with a great variety of types of evidence.

The appeals I have listed refer only to those that have been reopened in the law reports.

Overview of experience

My experience includes:

1. Management, supervision and direction of staff.

I have over a decades experience of management at the most senior levels and many more years experience at the mid range level of management.

As Deputy Director, I have taken a leading role in the management of the offices of the Director of Public Prosecution in Queensland and in the Solomon Islands. I currently mentor the Public Prosecutor of Papua New Guinea in relation to the management of his office.

Prior to my current employment, I also had substantial management experience as a member of the management committees of both the Brisbane Office of the Commonwealth Director of Public Prosecutions and the Office of the Queensland Director of Public Prosecutions.

During the earlier years of my career, I also have had substantial experience at directly supervising smaller numbers of both legal and non-legal staff. As an example, I have supervised a work group of 16 DPP staff (responsible for preparation of cases for prosecution) and have also led a team of prosecutors in prosecuting a series of related offences. Also, whilst employed in the Commission of Inquiry I managed investigations involving teams of police, accountants and lawyers.

2. Giving legal, operational and policy advice to the Directors of Public Prosecutions for Queensland, Solomon Islands and the Public Prosecutor for PNG as well as the Minister for Justice and Attorney General (Queensland).

I have regularly given advice to the Directors of Public Prosecutions (Commonwealth and State) and the Minister for Justice and Attorney-General on a wide range of matters including the exercise of the discretion to prosecute, granting of indemnities against prosecution, sufficiency of evidence, policy matters and amendments to the law. I have also provided this type of advice to the Director of Public Prosecutions for the Solomon Islands and the Public Prosecutor for Papua New Guinea.

3. Giving advice to investigating authorities.

In my career, I have dealt with a wide range of investigating authorities, including Queensland police, Federal police, Australian Crime Commission and its predecessor the National Crime Authority, Crime and Misconduct Commission and investigators attached to statutory bodies such as the taxation office. I have also provided this type of advice to The Royal Solomon Islands Police force as well as Participating Police Force officers of the Regional Aid Mission to the Solomon Islands and the Royal Papua New Guinea Police Force. In my dealings with those authorities, I have given advice on a wide range of matters, including advice in relation to ongoing investigations, compilation of briefs of evidence and sufficiency of evidence

4. Acting as mentor to other lawyers.

I have provided advice and guidance for many years to other prosecutors and legal staff responsible for case preparation. In addition to my work in Australia, I have provided advice and guidance to prosecutors and staff of the Office of Director of Public Prosecutions for the Solomon Islands and the office of the Public Prosecutor in Papua New Guinea.

5. Conducting and supervising the investigation of suspected offences.

When I was employed in the Commission of inquiry, I was responsible for initiating, supervising and personally conducting investigations. I have regularly provided advice to Queensland, Australian, Solomon Islands and Papua New Guinea Police in relation to ongoing investigations.

6. Preparing legislation and assisting in the passage of that legislation through Parliament.

When I was employed in the Constitution and Legislation branch of the Solicitor General's Office I was responsible for drafting amendments to legislation, instructing parliamentary counsel and assisting the process through Parliament. The position required me to liaise directly with the Attorney General and Minister for Justice and other members of the Queensland parliament. I have also, over the years been concerned with a wide range of legislative reforms relating to criminal law and procedure. Most recently I have drafted a new Public Prosecutor (Powers and Functions) Bill intended to replace the existing legislation relating to the operation of the office of Public Prosecutor in Papua New Guinea.

7. Representing the Director of Public Prosecutions and the State of Queensland.

In addition to representing the office as described elsewhere in this overview, I have appeared before two Parliamentary committees (the Joint Australian Parliamentary Committee on the National Crime Authority and the Joint Victorian Parliamentary Committee into Drugs). I have also represented the Solicitor-General at various Commonwealth/State conferences and negotiations. For example, I was the Solicitor General's representative at the Commonwealth / State officer's meetings to discuss implementation of the Mutual Assistance in Criminal Matters Treaty. I have been a member of a number of significant committees within the Queensland Criminal Justice system, responsible for various aspects of that system e.g. Dangerous Prisoners (Sexual Offenders) Review Committee and the Queensland Sentencing Database Committee.

8. Speaking at conferences and other public forums.

I have presented papers at a number of major conferences e.g.:

- (a) April 2008: Law and Order Issues in the 21st century hosted by the Queensland Law Society-Banco Court, Law Courts Complex Brisbane on "Case Management-Early Resolution";
- (b) November 2006: International conference hosted by the Canadian Justice Network in Ottawa Canada on dangerous offenders where I presented a paper on "The Prosecutor and the Dangerous Offender";
- (c) July 2006: I participated in a forum organized by Griffith University in relation to the use of DNA in wrongful convictions;
- (d) Inaugural Criminal Law Conference 2006 -Queensland Parliament House: "Rediscovering Criminal Discovery and the Challenges of Disclosure";
- (e) International Conference hosted by the Supreme Prosecutors Office of South Korea in July 2005 on "The use of pre recorded evidence in criminal proceedings";
- (f) Ninth annual conference of the International Association of Prosecutors, held in Seoul, South Korea in August 2004 on "Sentencing Guidelines and the role of prosecutors";
- (g) Sixth Annual Conference of the International Association of Prosecutors, held in Sydney in September 2001, "The use of inter active crime scene technology in court";
- (h) Fifteenth International Symposium on the Forensic Sciences, held at the Gold Coast in 2000 where I spoke on "Forensic science in trials"; and
- (i) Symposium 2000 (conducted by the Queensland Law Society) "The criminal justice system and proposed changes to it".

I have given many presentations in relation to prosecuting to delegations from the Asian region: particularly delegations of prosecutors and other justice officials from China, South Korea and Japan.

I have also, on a number of occasions, given various presentations to the public on matters relating to the criminal justice system e.g.:

- (a) I have been interviewed on ABC radio in relation to the use of DNA evidence in trials and in relation to my career;
- (b) 4 of my trials have been the subject of an Australian national television series "Forensic Investigators" in 2005 and 2006. One of my trials has been the subject of 2 episodes in the United States of America -CBS "48 Hours" in 2006 and also the subject of a Canadian program that was broadcast within North America. I was interviewed for those programs;
- (c) I was invited to be the opening speaker at a State library of Queensland display on Queensland murder trials;
- (d) I participated in a public forensic science presentation by police, forensic scientists and prosecutions at the University of Queensland;
- (e) I participated in the production of a science program, "Future Tense", produced on behalf of the Discovery Channel in the United Kingdom for world distribution where interactive crime scene technology developed in Queensland was demonstrated. I have worked closely with Queensland Police to develop the use of this technology in court;
- (f) I was a speaker at a 2001 conference of victims of sexual abuse at church and state institutions;
- (g) I have given a number of presentations to Students at Griffith and Bond Universities;
- (h) I am a regular speaker at various victims of crimes organizations; and
- (i) In May 2007, I presented a paper to the Australia and New Zealand Forensic Science Society on "The CSI effect."

9. Providing training to police, prosecutions staff, expert witnesses and the profession; e.g.:

(a) Police in Australia, Solomon islands and Papua New Guinea (e.g. at the Police Training Academy in relation to brief preparation and prosecution procedure, at conferences etc);

(b) Prosecutions staff and the wider profession (at CLE type presentations) on matters related to investigations and prosecuting. For example, I presented a paper on prosecuting at a CLE lecture for the Law Society, covering such topics as opening and closing the prosecution case, examination in chief, cross-examination and ethical considerations;

(c) Bond University students in relation to the giving of expert evidence; and

(d) Forensic scientists: Amongst other things, I have conducted training in conjunction with the National Institute of Forensic Science and the Queensland Health department, in relation to giving expert evidence in court and also in a training program conducted by the Office of the Director of Public Prosecutions forensic scientists.

I also presented CLE lectures to the prosecutors within the Office of the Director of Public Prosecutions for the Solomon Islands and the office of the Public Prosecutor in Papua New Guinea.

10. Project management.

I have designed and implemented a prosecutions case management system, which is used by the Queensland Office of the Director of Public Prosecutions.

I have been on a number of committees overseeing various major projects involving external agencies such as the Queensland Courts sentencing data base project and the Higher Courts wireless internet project, as well as numerous interagency committees such as the Serious Sexual Offenders review committee.

11. Liaising with international and national authorities.

I have well established links with a range of significant international and Australian authorities and individuals.

Internationally I have dealt with such authorities as the International Criminal Court, the International Association of Prosecutors, the National District Attorney's Association (USA), Australia-China Developments Centre, American Prosecutors Research Institute, National Centre for Prosecution of Child Abuse (USA) and a wide range of prosecuting and judicial authorities in the Republic of Korea, the Peoples Republic of China, Japan and Taiwan.

Within Australia, I have well established links with all Australian prosecuting authorities as well as investigating authorities, courts, other justice agencies and a number of universities.

Overview of positions held

1. *Principal Advisor to Public Prosecutor, Papua New Guinea, Office of the Public Prosecutor, Papua New Guinea, April 2010 to date.*

I advise and mentor the Public Prosecutor and his staff in relation to all areas of operation from management to advocacy. I am also engaged in a wide range of activities with other agencies in relation to the operation of the justice system in Papua New Guinea. My role is to strengthen the institution of the Office of the Public Prosecutor, particularly by developing the capacity of its officers.

2. *Deputy Director of Public Prosecutions, Queensland, Australia, Office of the Director of Public Prosecutions, Queensland, Appointed 28 March 2002.*

The position is the second most senior prosecuting position in Queensland. The Deputy Director of Public Prosecutions (Queensland) is responsible for providing leadership and management of DPP staff as well as appearing in complex trials and appeals and providing advice to the Director of Public Prosecutions and Minister for Justice and Attorney General.

I was required to regularly represent the office in various forums. I also acted as Director of Public Prosecutions on a number of occasions.

3. *Deputy Director of Public Prosecutions, Solomon Islands, Office of the Director of Public Prosecutions, Solomon Islands, August 2008 to December 2008.*

I was invited to return to perform the above role after my earlier period as advisor to the Director. The emphasis this time was more on court work, mentoring of staff and helping to progress the process of change that I initiated with my first appointment.

4. *Principal Advisor to Director of Public Prosecutions, Solomon Islands, Office of the Director of Public Prosecutions, Solomon Islands, December 2007 to March 2008.*

I was engaged to provide advice and mentoring to the Director of Public Prosecutions and to develop the capacity his office and staff. I conducted a review of the office and developed a new structure of office and case management. In addition I conducted training of staff in relation to prosecuting.

5. *Consultant Crown Prosecutor, Queensland, Australia, Office of the Director of Public Prosecutions, Queensland, February 1991 to 18 March 2002.*

The position of Consultant Crown Prosecutor is the most senior advocate position in the office of DPP. In that position I appeared in the most complex trials and appeals. In addition, I was directly involved in staff professional development and skills formation. In the position I exercised without supervision, where appropriate, the discretion to initiate, vary and discontinue serious criminal charges. I also regularly provided advice to police, the Director of Public Prosecutions and Minister for Justice and Attorney General.

6. *Principal Legal Officer, Queensland, Australia, Commonwealth Director of Public Prosecutions, June 1988 to February 1991.*

The duties of that position, in broad outline, were to prosecute offences against Commonwealth law, provide advice to the Director of Public Prosecutions and investigating authorities, represent the office and manage, supervise and develop staff.

7. *Barrister Assisting, Queensland, Australia, Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct, May 1987 to June 1988.*

I was one of the original five officers appointed to assist Mr. Fitzgerald QC in his inquiry police and political corruption in corruption in Queensland.

I was personally responsible for initiating, supervising and conducting investigations into the activities of persons connected to the Commission's terms of reference. Amongst other things, I personally investigated matters, directed teams of investigating police, lawyers and financial analysts, provided advice to the Royal Commissioner, liaised with a wide range of external authorities and appeared in Court and before the Commission in relation to matters within the Commission's terms of reference.

8. *Legal Officer, Queensland, Australia, Constitution and Legislation Branch - Solicitor-General's Office, May 1985 to May 1987.*

I was responsible for giving advice on constitutional law, criminal law and other matters and advising on and supervising the passage of proposed changes to state legislation. Amongst other things this involved providing legal and policy advice to government, drafting legislation, instructing Parliamentary Counsel and advising the Minister of Justice and Attorney General at all stages of the passage of legislation, including in Parliament. I represented the Solicitor-General at various Commonwealth/State conferences (eg Commonwealth/State negotiations on the Mutual Assistance in Criminal Matters treaty and related legislation) and participated in officer's meetings of the Standing Committee of Attorneys-General.

9. *Legal Officer and Crown Prosecutor, Queensland, Australia, Prosecutions Branch, Solicitor-General's Office, August 1979 to May 1985*

At that time, the Office of the Director of Public Prosecutions did not exist and prosecutions branch was responsible for conducting prosecutions upon indictment and prosecutions for various summary offences.

This was my introduction to prosecuting. I regularly prosecuted a wide range and large numbers of criminal offences upon indictment as well as a wide range of summary offences. During this period I also acted as the Officer in Charge of the then 'Appeals' section and also lead a team of prosecutors in prosecuting offences. I was regularly required to provide advice and opinions.

10. *Defence Counsel*, Queensland, Australia, Public Defender's Office, June 1978 to August 1979.

This was my introduction to criminal law practice. I was responsible for preparing the defence case and after my admission in January 1979 appeared in the District Court on behalf of various accused.

2. James K. Stewart (Canada)

[Original: English]

Executive summary of relevant experience

Advantages I would bring to the post of Deputy Prosecutor (Prosecution) include experience with criminal prosecutions, both domestic and international; skill as a trial and appellate advocate; success as a senior legal manager; ability to work in a multi-cultural, multi-disciplinary environment; and flexibility of mind. English and French are my working languages.

In Canada, I have thrived in a legal system that values the rule of law and depends on the competence and integrity of counsel. Thirty years of experience have taught me proficiency in the law; but they have also taught me how to deal with people with insight and courtesy, whether they are victims or witnesses, police officers, defence counsel, judges, juries or, indeed, accused persons.

My international experience has been gained in over eight years of service with ICTR and ICTY. At ICTR, working as Senior Trial Attorney during the early days of the Tribunal allowed me to gain first-hand knowledge of the challenges presented by international criminal trials. The prosecution team I led successfully handled the first cases heard by the Trial Chambers in Arusha.

Serving as the first Chief of Prosecutions at ICTY, and later as a successful Chief of the Appeals and Legal Advisory Division at ICTR, enabled me to develop leadership skills and acquire management experience that should be of value to the Prosecutor in the achievement of her mandate at the ICC.

Leading by the example of my own hard work as head of appeals at ICTR, I imbued my appeal teams with a desire for excellence and pride in achievement. We developed an appellate advocacy training program for appeals counsel serving at ICTR, ICTY, and the ICC. This course is still the model for that used for appellate advocacy training at the ICC. As a senior manager, I was meticulous about timely work plans and performance evaluations, actively involving my staff in setting organizational goals, as well as their own. Our appellate counsel enjoyed an excellent reputation with the Appeals Chamber.

As Chief of Prosecutions at ICTY, it was my responsibility to supervise all operations of the Prosecutions Division. In collaboration with senior counsel and, in particular, the Chief of Investigations, I assisted the Deputy Prosecutor and the Prosecutor in the overall management of the OTP. As a senior OTP official, I also dealt with governments and outside agencies on sensitive matters.

My legal practice for the Crown in Canada has been long and varied. Since late 2007, however, my work has focused almost exclusively on criminal appeals before the Court of Appeal for Ontario and the Supreme Court of Canada. As General Counsel in my office, I also provide legal opinions to my Director, mentor less experienced counsel, and serve as principal to articling students.

Curriculum vitae

Education

1. *Bar Admission Course*, 1976 -1977, in Toronto.
2. *LL.B.*, 1972 -1975, Faculty of Law, University of Toronto, Toronto.
3. *Diplôme d'aptitude à l'enseignement du français par les méthodes audio-visuelles*, 1971, Université Laval, Ste.-Foy, Québec.
4. *M. ès A.*, 1969 -1971, Faculté des Lettres, Université Laval, Ste.-Foy, Québec.
5. *B.A.*, 1964 -1967, Faculty of Arts, Queen's University, Kingston, Ontario.

Professional qualifications

Barrister and Solicitor, member in good standing of the Law Society of Upper Canada; called to the Bar of Ontario on 29 March 1977.

Languages

Fluent in English and French.

Computer skills

Basic competence in MSWord, Microsoft Outlet, and Lotus Notes.

Work experience

1. *27 August 2007 until present: General Counsel* in the Crown Law Office - Criminal, Ministry of the Attorney General, in Toronto.

As General Counsel in the Appeals Practice Group, my primary duty is to handle criminal appeals in the Court of Appeal for Ontario and the Supreme Court of Canada on behalf of the Attorney General. I have a busy appellate practice, working in both English and French. In addition to my regular case load, my office is permitting me to assist the Prosecutor of the Special Court for Sierra Leone (SCSL) with appellate work.

I was a co-director of the Appellate Advocacy Course, which was successfully run in July 2011 at the Ontario Crown Attorneys' Association (OCAA) Summer School held in London, Ontario.

For three years now, I have served as an Articling Principal in our office, mentoring articling students.

2. *31 January 2004 to 31 July 2007: Chief, Appeals and Legal Advisory Division (ALAD)*, and, formerly, Senior Appeals Counsel and Head of the Appeals Section, in the Office of the Prosecutor for the U.N. International Criminal Tribunal for Rwanda (ICTR), in Arusha, Tanzania.

Reporting directly to the Prosecutor, I developed the capacity of his Office to handle appeals, which until then had been handled by counsel in The Hague. I was responsible for managing all appellate operations on behalf of the Prosecutor, including planning, recruitment, and staff performance evaluations, and for providing leadership to the Division. I appeared as lead counsel before the ICTR Appeals Chamber.

Given the need to build the competence and confidence of appeals counsel with different backgrounds and experience, and the need to create a coherent approach to appeals, I designed and assisted in delivering appellate advocacy training to counsel in ALAD. Our course also served to train appellate counsel working at the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Court (ICC). ALAD counsel enjoyed an excellent reputation before the ICTR Appeals Chamber.

As a senior lawyer, I was involved in the overall management of the Office of the Prosecutor (OTP). I gave legal and policy advice to the Prosecutor and senior management, and legal advice to trial teams. Our Division was also responsible for delivering continuing legal education to OTP professional staff. From January to May 2007, I was also Acting Chief of Prosecutions.

I used both English and French in the discharge of my duties.

3. *October 2001 to January 2004: General Counsel and Head of the Justice Prosecutions Practice Group* in the Crown Law Office - Criminal, Ministry of the Attorney General, in Toronto.

My duties as General Counsel included handling appeals in the Court of Appeal for Ontario on behalf of the Attorney General and providing legal advice to police services and Crown Attorneys' offices in Ontario.

As head of the Justice Prosecutions Practice Group, from 15 April 2002 until 15 December 2003, I managed the work of a group of Crown counsel, who had the sole mandate to prosecute cases brought by the Special Investigations Unit, respecting police shootings or other incidents of serious violence involving police officers, as well as responsibility for other sensitive prosecutions of police officers and justice officials alleged to have committed criminal offences. As head of this practice group, I conducted criminal trials and participated in the senior management of the Office.

4. *January 1999 to September 2001: Chief of Prosecutions*, UN International Criminal Tribunal for the former Yugoslavia (ICTY), in The Hague, Netherlands.

Reporting to the Deputy Prosecutor, I was responsible for managing all of the operations of the Prosecutions Division of the Office of the Prosecutor (OTP) for the ICTY. This Division conducted all trials and related proceedings before the Trial Chambers, as well as providing legal and policy advice to the Deputy Prosecutor and the Prosecutor.

I regularly advised the Deputy Prosecutor and the Prosecutor on sensitive issues, and participated in meetings they held with representatives of governments and outside agencies.

My responsibilities included, among many other duties relating to prosecutions, assisting in the delivery of trial advocacy training. I was also involved in recruitment. With the Chief of Investigations, Senior Trial Attorneys, and the Senior Appeals Counsel, I assisted the Deputy Prosecutor and the Prosecutor in the overall management of the OIP.

The Appeals Section was not within my chain of command, but I often advised on appeal matters.

5. *February 1997 to December 1998: Senior Trial Attorney, in the Office of the Prosecutor (OTP)*, UN ICTR; my duty station was in Kigali, Rwanda, but I spent most of my time on mission in Arusha, Tanzania, seat of the Tribunal.

I successfully led the trial team that conducted the first prosecutions before the ICTR Trial Chambers (notably, in the *Akayesu*, *Kayishema and Ruzindana*, and *Rutaganda* cases). As team leader, I helped to design and deliver, with one other more experienced member of my team, trial advocacy training to my trial team, especially on cross-examination skills. As lead counsel, I was heavily involved in all aspects of our litigation responsibilities in Arusha.

In this period, I was also the senior representative of the OTP in Arusha, in the absence of the Deputy Prosecutor or the Prosecutor, and carried out administrative duties, planning our work, dealing with the President and other senior Tribunal officials, and responding to press queries. I kept the Deputy Prosecutor, who was based in Kigali, fully informed about all aspects of our mission. I worked in both English and French.

6. *February 1985 to February 1997: Crown Counsel then Senior Counsel, and then General Counsel*, in the Crown Law Office - Criminal, Ministry of the Attorney General, in Toronto.

My primary responsibilities were to handle criminal trials at all levels of court in Ontario, both jury and non-jury, and appeals before the Ontario Court of Appeal and the Supreme Court of Canada on behalf of the Attorney General. I worked in both English and French.

As an agent specially designated in writing by the Attorney General, I advised police officers on the preparation of materials in support of applications for authorizations to intercept private communications and, in appropriate cases, made such applications before a judge. I advised police officers on search warrants and other investigative matters.

I was also involved in delivering appellate advocacy training to Crown and defence counsel, and teaching Criminal Law at the Bar Admission Course.

7. *December 1979 to January 1985: Assistant Crown Attorney* in the Downtown Toronto Crown Attorney's Office, in Toronto.

My duties included handling criminal prosecutions on behalf of the Crown at all levels of court in Ontario, jury and non-jury. In August -September 1984, I participated in an exchange between Ontario and Quebec, which allowed me to handle criminal cases in the non-jury criminal court, on behalf of the *Substitut du Procureur général*, in Quebec City, where I functioned exclusively in French. As a bilingual counsel in Toronto, I appeared in trial courts in other Ontario cities too, to handle proceedings in French.

8. *November 1977 to November 1979: Legal Officer*, Office of the Ombudsman, III Toronto.

My duties included advising the Ombudsman and his officials, with respect to the investigation and disposition of complaints against Ontario governmental organizations. I assisted in managing non-legal staff.

9. *August 1975 to August 1976: Articling student to Robert J. Carter, Q.C.*, in Toronto. My principal was a leading criminal defence counsel, with a busy trial and appellate practice.

Other professional responsibilities and activities

1. Member of the Ontario Crown Attorneys' Association (OCAA) and the International Association of Prosecutors (IAP).
2. Gave a presentation on Canadian criminal law and procedure to a delegation of the Judicial Committee of the Vietnamese National Assembly in Ottawa, on 28 November 2011.
3. Designed and delivered a course on appellate legal writing for the Office of the Prosecutor of the Special Court for Sierra Leone (SCSL), in anticipation of the pending *Taylor* trial judgment, in The Hague, Netherlands, on 7 -10 September 2011.
4. Assisted, as a co-director, in the design and delivery of the Ontario Crown Attorneys' Association (OCAA) Summer School Appellate Advocacy Course, held at the University of Western Ontario, London, Ontario, on 18 -21 July 2011. (In connection with this course, I played a key role in the successful application of the OCAA to the Law Foundation of Ontario for a grant to fund the participation of four appellate counsel from the UN international criminal tribunals for the former Yugoslavia and Rwanda.)
5. Assisted in the design and delivery of an appellate legal writing course for the Appeals and Legal Advisory Division of the Office of the Prosecutor of the International Criminal Tribunal for Rwanda (ICTR), in Arusha, Tanzania, on 8 9 March 2011.
6. Served as a judge for the annual Gale Cup Moot, in Toronto, on 25 February 2011, grading French appeal factums [brief] beforehand.
7. Participated at the invitation of the Prosecutor of the ICTR in the 5th Prosecutors' Colloquium, held in Kigali, Rwanda, on 11 -13 November 2009, presenting a paper on judicial notice in national court trials of facts established in specialized tribunals, such as ICTR.
8. Participated by invitation in the International Symposium on "ICTR: Model or Counter Model for International Criminal Justice? The Perspectives of the Stakeholders", held in Geneva, Switzerland, on 9 -11 July 2009.

9. Participated, in Toronto, as a trial advocacy demonstrator, in the Canada-China Judicial Linkages Project (CCJLP): Criminal Evidence Technical Exchange, run by the National Judicial Council, on 14 -15 November 2007.
10. Initiated, designed, and helped deliver appellate advocacy training to appeals counsel serving at the International Criminal Tribunal for Rwanda (ICTR), the International Criminal Tribunal for the former Yugoslavia (ICTY), and the International Criminal Court (ICC), by means of the ICTY ICTR ICC Joint Appellate Advocacy Training Program, in January 2005, in The Hague, Netherlands; 2006, in Arusha, Tanzania; 2007, in The Hague; and 2008, in Arusha.
11. Directed a capacity building seminar for the ICTR Appeals and Legal Advisory Division, to integrate new counsel into the Division and create a manual of best practices covering all appellate operations, at Tengeru, Tanzania, on 7 -9 June 2007. (This program anticipated a management transition, given my imminent departure as Chief of the Division to return to Canada.)
12. Lectured in French on basic international law concepts at a course delivered to Congolese investigators, prosecutors, and judges, under UN auspices, by the International Institute of Criminal Investigations (IICI), in Kinshasa, Democratic Republic of Congo, in March 2007.
13. Initiated and helped organize a seminar in The Hague, Netherlands, to allow appeals counsel working at the ICTR and the ICTY to discuss a range of legal issues of mutual interest and importance, on 2 -6 November 2006.
14. Participated as a panelist on the subject, "Historical Fact to Legal Evidence", in a conference sponsored by the Canadian federal Department of Justice War Crimes and Crimes Against Humanity Section, in Ottawa, on 7 -9 December 2003.
15. Participated as observer and trial advocacy trainer in the Intensive Trial Advocacy Workshop (ITAW), at Osgoode Hall Law School, Toronto, on 6 -7 July 2003.
16. Presented a paper on "International Criminal Prosecutions: the Ideal Prosecutor: Status, Means and Discretion" at the conference on "The Highway to the International Criminal Court: All Roads Lead to Rome", held in Montreal by the Canadian Institute for the Administration of Justice (CIAJ) and the Faculty of Law of the University of Montreal, on 1 -2 May 2003. (My paper was published in *La voie vers la Cour pénale internationale : tous les chemins mènent à Rome -The Highway to the International Criminal Court: all roads lead to Rome* (2004 : Editions Thémis, Montréal).
17. Served as a bilingual judge for the annual Gale Cup Moot, in Toronto, on 21 -22 February 2003, and also did so regularly in the period 1989 -1996.
18. Spoke on "Experiences with Forensic Investigations for ICTR" at the International Criminal Law Network (ICLN) conference on "Establishing the International Criminal Court", held in The Hague, Netherlands, on 18 -20 December 2002.
19. Addressed *la 114^{ième} promotion du Cours supérieur d'état major* at the French Army's *Collège militaire*, in Paris, France, on the operations of the International Criminal Tribunal for the former Yugoslavia (ICTY), on 11 June 2001.
20. Served as a workshop leader at the Canadian Forces College Module on the Law of Armed Conflict, in Toronto, on 30 October -3 November 2000, where I also spoke on law of armed conflict issues encountered at ICTY, having attended in a similar capacity at the College on 1 -5 November 1999.
21. Served as a seminar instructor in the Criminal Procedure Course at the Bar Admission Course, in Toronto, annually in the period 1986 -1996.
22. Assisted in planning, developing course materials, and delivering training in French for the continuing legal education program for Ontario Justices of the Peace (*Formation permanente des juges de paix bilingues*), in the period 1993-6.
23. Served as a seminar instructor in the Appellate Advocacy Program organized by the Ontario Centre for Advocacy Training, in Toronto, in April 1994.

3. Raija Toiviainen (Finland)

[Original: English]

Executive summary of relevant experience

Dear Madam or Sir,

I kindly ask you take my application for the post mentioned above into consideration. I am a Finnish 57 years old female lawyer with a family.

I work as State Prosecutor and I am also Head of the International Unit at the Office of the Prosecutor General. I have had this position for *over* 14 years. The Office of the Prosecutor General is the central authority for the Finnish Prosecution Service which is an expert organization with more than 300 lawyers. My duties involve co-operation with prosecutors and their training in criminal cases with international links, and a considerable part of my tasks involves strategic management, steering and development of the prosecutorial activities.

Since March 2007 I have been head prosecutor in a case concerning the genocide in Rwanda in 1994. The defendant was sentenced to life imprisonment for genocide in the court of appeal on 30 March 2012.

Additionally, I have acted as prosecutor at the Prosecutor's Office of Helsinki for more than 6 years, and as judge at the District Court of Helsinki for over 8 years.

Furthermore, I have record in working at a ministry, because I was lawyer of the international unit at the Ministry of Justice for almost two years.

Over 16 years I have constantly participated in various international fora: in the Nordic countries, the Baltic Sea region, European Union, Council of Europe, and the International Association of Prosecutors (IAP). So I have extensive international networks.

During my whole career I have been training prosecutors, judges, lawyers and pretrial investigation authorities.

Yours faithfully,

Raija Toiviainen

Curriculum vitae

Personal information

Name: Raija Toiviainen
Birth date: 2 September 1954
Nationality: Finnish
Gender: Female

Education

Higher academic degree, Master of Laws, University of Helsinki 1980, trained on the bench 1981.

Additional education and training

- 1 Training in conducting of proceedings and decision making, 1990.
- 2 Training related to reconstruction of the Court system, 1992 -1994.
- 3 Two extensive leadership training periods in 2002 and in 2009-2012. The training in demanding ethical and value-based leadership and in *executive* group work.
- 4 Updating training for experienced prosecutors, 2006.

5 Course of the Civilian Aspects of Crisis Management, 2001. Themes: international organizations' field presence, Finland's policy line towards democracy and human rights issues, stress management, health care and personal safety, mine awareness, telecommunication, case studies in Bosnia-Herzegovina and Kosovo, cultural aspects, international legal agreements and legal practice.

6. National Defence Course, 2010 Training angled at eminent officials in Finland's foreign, security, and defence policies, ability of different sectors of the society to act and manage in emergency situations, organized by the Finnish Defence Forces.

Language skills

Good knowledge and comprehension of both spoken and written English.

Work experience

1. *Head of the International Unit of the Office of the Prosecutor General of Finland*, Helsinki, from 1 December 1997.

The Prosecution Service of Finland is an expert organization of more than 300 lawyers, the central administration agency of which is the Office of the Prosecutor General.

(a) Leadership and development.

Finland's Prosecution Service is headed by the supreme prosecutor, Prosecutor General. The Deputy Prosecutor General has the same authority as the Prosecutor General, and he acts as deputy to the Prosecutor General. I substitute for the Deputy Prosecutor General.

General leadership, development, and supervision of the prosecutorial activities of Finland are conducted by the Office of the Prosecutor General. As State Prosecutor and Head of the International Unit, I participate in these operations. A significant part of my duties relates to strategic leadership, steering and development, and follow-up the activities, as well as measuring results. I have been member of the management group of the Office of the Prosecutor General since the foundation of the Office that is more than 14 years. The main task of the management group is to act as an advisory body in matters concerning both the whole Prosecution Service and the Office of the Prosecutor General. Except line questions of prosecutorial activities, the management group deals also with activity appropriation, follows realization of objectives, and use of resources.

The strategy of the Finnish Prosecution Service for the years 2014 -2020 was confirmed in February 2012. I was one of its writers, and I will be responsible for its implementation.

As head of the International Unit, I am in charge of the strategy and development of the international activities of the Prosecution Service of Finland. In 1997, when the Prosecution Service got its present form, there was no international activity worth mentioning. I started to develop international activities, and already in 1998 they became a part of the of the basic operation of the Prosecution Service. We have channels to cooperate with all significant international organizations on every continent. International judicial instruments and procedures are known by our prosecutors.

Since 2000, I am leader of an expert group of prosecutors who are specialized in international criminal cases. This group assists and trains other prosecutors in criminal cases with international links.

Since 2000, I have instructed, supervised and developed the activities of the Finnish desk of Eurojust in the Hague, the Netherlands. Eurojust co-ordinates investigations and prosecutions among the competent judicial authorities of the EU member states when they deal with serious cross-border and organized crime. I represented the government of Finland in the negotiations in Brussels when Eurojust was established.

In 2003, I founded a multi-administrative expert team for prosecutors, judges, pretrial investigation authorities, and legislators which works under my direction. This team is monitoring the legal practice of extradition of offenders and assets recovery. It also analyzes the material, and develops the operative activities of prosecutors and pretrial investigation authorities in this field.

The International Unit I am heading, monitors threats of international organized criminality, and reports them to the Prosecutor General.

(b) Operational activity as state prosecutor.

As head of the International Unit, I assist Finnish prosecutors and pretrial investigation authorities in criminal cases with international links. My judicial expertise is needed in cases related to international law of criminal procedure, like extradition and legal assistance.

Since 2007, I am prosecutor in charge in a genocide case that took place in Rwanda in 1994. The defendant is a Rwandan man living in Finland. According to the charge, he has de facto acted as chief whose orders resulted in houses of many Tutsis being burned down, and lots of Tutsis were killed in a cruel way. All evidence was obtained, and investigations were made in this case outside the borders of Finland. I have made wide cooperation with authorities of Rwanda, and also of other states during pretrial investigations and trials. Among other things, this has meant me living in many weeks' time in the countries in question. The pretrial investigation material consists of thousands of pages, and more than a hundred witnesses have been heard. 78 witnesses were heard in the court. Both the district court and the court of appeal took most of the personal evidence in Rwanda and Tanzania in cooperation with their authorities. In the district court the defendant was sentenced to imprisonment for life for a genocide. The court of appeal is going to give its decision at the end of March in 2012.

When substituting the Deputy Prosecutor General I decide, among other things, on complaints that have been made concerning the activities of prosecutors (e.g. related to their decisions, proceedings, or their behavior).

(c) Other activities.

For 14 years I have been member of various international organizations, and represented the Prosecution Service of Finland on many international fora. I am also member of several international and national networks, of which the most significant are:

- (i) Cooperative meetings of prosecution services of the Scandinavian countries, e.g. Nordic network for investigation and prosecution of genocide, crimes against humanity and war crimes;
- (ii) The yearly meetings of the Prosecutors General of the Baltic Sea States (Scandinavian countries, Baltic, Germany, Poland and Russia);
- (iii) Member of the European Judicial Network;
- (iv) Strategic, and other meetings of Eurojust;
- (v) Member of the EU Network for investigation and prosecution of genocide, crimes against humanity and war crimes;
- (vi) Member of the EU Consultative Forum;
- (vii) Member of Consultative Council of European Prosecutors, Council of Europe, and additionally, member of the Working Group and the Bureau (preparing bodies);
- (viii) Representative of Finland in GRECO (Group against corruption, Council of Europe);
- (ix) Judicial cooperation between Estonia, Russia and the People's Republic of China; and
- (x) Association of International Prosecutors (IAP) member of the Executive Committee, and Vice President of Europe.

2. *Lawyer of the International Unit of Ministry of Justice of Finland, April 1996 - December 1997.*

My tasks related to extradition, criminal and civil legal assistance, and children's kidnapping I also prepared and executed cooperative, judicial projects between Ministry of Justice and the Baltic region, and the People's Republic of China. I represented Ministry of

Justice at meetings of Council of Europe, and assisted the Ministry management with arrangements of international visits.

3. *Judge, District Court of Helsinki, 1988-1996.*

I acted as judge in criminal division where I decided on, among other things, various economic, violent, property, and labour protection offences, as well as offences in office, and offences related to juvenile delinquency. In 1989 -1991, I was leading judge for coercive measures. My task was to decide on imprisoning, confiscation, freezing, and other coercive measures. During the mentioned time I also acted as judge for civil cases. Then I decided on contract, commercial, and company law cases, as well as cases related to labour, family, and inheritance laws.

4. *Prosecutor, Prosecutor's Office of Helsinki, 1982-1988.*

I acted as prosecutor in various criminal cases, such as violent offences, and more than four years in cases of serious drug offences. In last-mentioned cases it was especially challenging to obtain evidence, and to manage procedurally big cases where there were gangs of offenders. At those times prosecutorial teams were not yet used in big cases but only one prosecutor was responsible for management of a case in every stage.

5. *Educator*

During my whole career I have been acting as educator for prosecutors, judges, pretrial investigation authorities and lawyers. The next course that I am leading and giving education, will take place in November. It is a course in law of international criminal procedure and is aimed at prosecutors.

6. *Other tasks*

For several years I have acted as expert in legislation projects of EU Justice and Home Affairs, and as member in national and international working groups. I have as well written articles which have mainly been published in the newsletter of the Prosecution Service.

Personal data

My managerial and professional skills were examined in an aptitude test and in a personal estimation. According to them I am a professional, responsible, conscientious and hard-working person. My attitude towards my job and career is ambitious, and I am committed, clear and systematic. I was estimated to be cooperative. I express my opinions, and validate them. My attitude is positive and open. I have the courage to take up new matters, and ability to listen and to encourage, and to do teamwork.

I am healthy and in good shape to work. I keep myself in trim, I have hobbies, and a wide circle of friends. My family is very important to me.

Yours faithfully,

Raija Toiviainen
