

## **Ben Mahfoudh, Haykel (Tunisia)**

### **Statement of qualifications**

*Document submitted pursuant to paragraph 6 of resolution ICC-ASP/3/Res.6, as amended by subsequent resolutions, in support of the proposed candidature of Professor Haykel Ben Mahfoudh for election as a judge of the International Criminal Court.*

The Ministry of Foreign Affairs of the Republic of Tunisia presents its compliments to the Secretariat of the Assembly of States Parties of the International Criminal Court and has the honor to transmit this document in support of the nomination of Mr. Haykel Ben Mahfoudh as a candidate for election as a judge of the International Criminal Court, which will be held at the United Nations Headquarters in New York from 7 to 17 December 2020.

Professor Haykel Ben Mahfoudh is a Tunisian citizen. He is Professor of Public International Law at the Faculty of Legal, Political and Social Sciences of Tunis (University of Carthage) and Director of the Research Center for International and European Law and Maghreb-European Relations at the same Faculty.

The candidate is qualified to meet the criteria of article 36(3)(a) of the Statute, in particular for his high moral qualities and probity, for his qualifications and experience across the region, his professional integrity and records, his significant work in the field of humanitarian law and human rights, as well as for his sensitivity to cultural diversity.

Mr. Ben Mahfoudh holds a *PhD* (Doctorate) in International Humanitarian Law (IHL) from the University of Carthage. His doctoral thesis on "*The protection of the environment in times of armed conflict*", which was defended in 2005, was distinguished with highest honors and proposed for a prize and publication.

He began his career in 1996 as an Assistant-Teacher and then was admitted as an Assistant-Professor (2006). In 2009 he was admitted to national selection of Associate professors in public law. He is currently a full Professor (since 2015). He served as Head of the Public Law Department and Supervisor of the Common Law Master's degree program.

His work is recognized for its great relevance, method and high scientific quality in the fields of IHL and international peace and security studies. His publications are often cited in the researches related to his filed of work and among legal practitioners in Tunisia and abroad. The book he published in December 2011 on: "The Environment, Humanitarian and International Law" is, for example, quoted by the International Law Commission (ILC) Report on the protection of the environment in relation to armed conflicts.

Mr. Ben Mahfoudh has carried out and directed several research projects on several topics related to international humanitarian law, prevention and punishment of war crimes, crimes against humanity, the crime of genocide and crime of aggression. He brought his contribution to the development of knowledge on issues related to the individual criminal responsibility for international crimes and national measures to repress violations of humanitarian rules. He closely follows international and comparative jurisprudences in the related areas and contributes to the dissemination and development of national legislation to combat impunity.

He intensively wrote, published and participated in the debates on the responsibility of non-State actors in non-international armed conflicts. He has published works and conducted research on minorities' protection, the prosecution of terrorist acts as war crimes and/or crimes against humanity, and further potential ways that provides possibilities for the reparation of damages resulting from crimes committed by foreign fighters. He is a regular speaker at national and international symposia and seminars organized on topics related to the ICC's jurisdiction around the world.

In addition, he is recognized in North Africa and the Middle East (MENA) region for his expertise on local peace processes and the protection of civilians. He has a practical experience in designing peace processes and how to connect this with establishing sustainable justice systems in post-conflict States.

As a legal scholar, he was confronted to the issues of interplays between different legal systems and cultures. He learned from the legal operational dialogue with experts and practitioners how to help people build a better system of rule of law and accountability that meet the required standards of international law bodies and treaties.

In this capacity, he is increasingly involved in supporting security sector reform (SSR) processes, particularly with regional and global intergovernmental organisations (United Nations, ICRC, IDEA). He provides the conceptual framework for the design and negotiation of peace agreements provides technical advice to build the capacity of the national authorities (the police, the military or the judiciary) to respect and protect human rights and to combat impunity (Yemen, Libya, Iraq, Tunisia). This includes reviewing and drafting legal documents for the protection of vulnerable victims of human trafficking, such as migrants (Libya).

With a university career of more than 23 years, Professor Ben Mahfoudh has notably taught the following subjects: international humanitarian law, international criminal law, the system of sanctions in international law, international institutions, Introduction to the Common Law System. He also holds the Chair of Constitutional Law. His career reflects a scientific dynamism, openness to different cultures and legal systems and the development of a personal reflection on current problems of international law, particularly those related to the protection of victims of conflicts in the MENA region.

Furthermore, Mr. Ben Mahfoudh is a lawyer at the Court and has been a member of the Tunis Bar since 1996. He has practiced criminal trial in its various instances, and has provided advice and assistance to women and children who are victims of domestic violence and/or abuses. He continues to advise organizations and collectives for the defense of the victims of human rights violations and to speak out before national, regional and international judicial bodies.

He is fluent in Arabic, French and English. He teaches and publishes in all three languages.

Drawing on his professional records and expertise in the fields of international humanitarian law and human rights law, his focus on victims' rights and the need to protect the particular vulnerable persons, in addition to his legal practice in criminal law justice systems, Mr. Haykel Ben Mahfoudh is nominated by the Government of the Republic of Tunisia for the election of judges in list B for the purposes of article 36, paragraph 5, of the Statute.

His nomination is made in accordance with the procedure for the nomination of candidates for membership of the International Court of Justice as provided for in the Statute of the Court.

Dr. Haykal Ben Mahfoudh's nomination to the election as a judge of the International Criminal Court comes from the Tunisian State's adherence to the principles of a fair trial and to the universal human values and principles of human rights, which are the foundations of its new constitution for the year 2014 and an extension as well to its accession to the Rome Convention immediately after the democratic transition of 2011.

In expressing his interest in standing for election as a judge of the International Criminal Court, Mr. Ben Mahfoudh has formally undertaken to make himself available to serve on a full-time basis when the workload of the Court so requires. His status as a university professor allows him to benefit from the necessary layoffs for the duration of his term of office. The candidate is willing to provide all additional information in support of this nomination and to respond to the steps, procedures and meetings provided for this purpose.