

COALITION FOR THE INTERNATIONAL CRIMINAL COURT

This questionnaire has been developed by civil society to complement the assessment process conducted by the Advisory Committee on Nominations of Judges (ACN) for candidates seeking election as judges of the International Criminal Court (ICC) in 2026.

The questionnaire seeks to provide additional information on candidates' professional experience, judicial philosophy, approach to independence and integrity, understanding of victims' rights, leadership and workplace culture, and broader vision for the Court.

Name of Candidate: Guénaél METTRAUX

Date: 31 August 2026

Motivation:

- 1. What motivates you to seek election as a judge of the International Criminal Court at this particular moment in the Court's development?**

The International Criminal Court constitutes a critical element of a law-based international order. It is intended to create a degree of deterrence and compliance with international law that is essential to that order. It also seeks to provide justice and accountability in respect of individuals who generally have no or no effective alternative recourse.

I was motivated to seek election in the belief that my experience and expertise in the field of relevance to the work of the Court could help the Court function more effectively, contribute knowledge and expertise acquired across various international(ised) and domestic jurisdictions over three decades, and help strengthen the Court.

- 2. In your view, what are the ICC's greatest institutional and legal challenges over the next decade, and how could judges contribute to addressing them?**

The ICC is facing challenges on many fronts, internally and externally. Among those which I consider the greatest are these: apply law consistently, clearly, and universally in all cases subject to its jurisdiction; assert and reinforce the credibility and legitimacy of the work of the Court; create and reinforce its internal judicial culture; implement a zero-tolerance policy for harassment and reinforce associated mechanisms and procedures to address any legitimate complaint involving such conduct; enhance, favor and adopt practices and policies that shield the Court from attempts at external influence; and help build up and reinforce continued political and diplomatic support for the Court; bolster the case for international criminal justice. Judges can contribute to each and all of these by, inter alia, performing their judicial function to the highest expected standards.

3. How would your professional background, expertise, and personal experience contribute to the effectiveness, legitimacy, and diversity of the Court?

Regarding the issue of *effectiveness*, I have practiced in the field of international criminal and humanitarian law for over 25 years. I have both practitioner and academic expertise in this field. I am familiar not just with the law and the Court's procedure but with the practices developed in many and most international(ised) criminal tribunals. Effectiveness, understood as the professional, fair and efficient management of proceedings constitutes an important element of these institution's credibility and legitimacy. I have been committed to such a goal all through my career. For instance, I was the principal author of a (2014) report on the subject (<https://www.legal-tools.org/doc/3dae90/>). I was also deeply involved in the drafting of the Rules of Procedure and Evidence of the KSC, which implemented a significant number of 'best practices' intended to contribute to the effectiveness of proceedings (<https://www.scp-ks.org/sites/default/files/public/content/documents/ksc-bd-03-rev3-rulesofprocedureandevidence.pdf>). Also, as a Judge, my Panel has been applying many of these same measures in order to ensure fair and efficient proceedings in a case of great factual complexity and evidential magnitude (see, e.g., *The Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi*, KSC-BC-2020-06, Order on the Conduct of Proceedings, Annex 1, 25 January 2023: <https://repository.scp-ks.org/LW/Published/Filing/0b1ec6e980df5b83/Annex%201%20to%20Order%20on%20the%20Conduct%20of%20Proceedings.pdf>)).

Regarding *legitimacy*, I have a track record as a professional in the field of international criminal justice. I have been involved in a variety of capacities in some of the most politically-sensitive cases in which pressures and expectations are immense. That experience has enable me to navigate highly complex and large criminal cases and operate in sensitive political and security environments. That experience could serve the Court well. The integration of various legal cultures and traditions constitutes an important element of the

Court's legitimacy. In that regard, I was privileged to cross over, professionally, the civil law, common law, and hybrid traditions, and I have practiced law and worked on cases in various jurisdictions of different legal traditions. As counsel and then as a Judge, I have worked with lawyers from various countries, backgrounds and experience. The practice of international criminal law is also the art of understanding legal traditions not one's own in order to find common grounds. As an example, my current Panel is composed, in addition to me, of an American Judge, a German Judge and an Irish Judge. The complementarity of skills, experiences, and backgrounds has been a major asset in the management of the cases this group of Judges has been involved with before the KSC. Our efforts to work out differences and iron out different legal views that might be tied to our respective backgrounds is reflected in the fact that out of the more than 1000 decisions and orders which we rendered across those two cases, there was only ever one dissenting opinion.

Regarding *diversity*, my professional background would contribute in a number of ways: I am a civil-law trained lawyer, but I have learnt to practice in both common law-based and hybrid systems; I am a francophone but I practiced and work in both French and English; I have a dual hat as an academic and a practitioner; I also have a great deal of defence experience and worked with the military in various cases; also, I have worked with colleagues from many different backgrounds, nationalities, genders, cultures, and religions and in relation to many different geographical, linguistic and political contexts. I am therefore fully familiar and professionally at ease in a multi-cultural environment such as the ICC.

Relevant experience as a criminal law practitioner (List A) or international law expert (List B)

Please respond to the questions below depending on your relevant experience and background.

List A – Criminal Law Practitioners

4. Please describe your experience as a judge, prosecutor, defence counsel, or other criminal law practitioner in domestic and/or international criminal proceedings.

Please include:

- **the types and complexity of cases handled;**
- **your specific responsibilities;**
- **experience managing lengthy or complex proceedings; and**
- **examples of difficult legal substantive or procedural challenges you encountered and how you addressed them.**

As a practitioner, I have 27 years of relevant experience in the field of international criminal law, international humanitarian law, public international law and international human rights law. I have practiced in a variety of capacities (counsel; consultant; legal officer) in at least six international(ised) criminal tribunals (ICTY; ICTR; ICC; STL; ECCC; and KSC) and had limited involvement at the SCSL and State Court of Bosnia-Herzegovina (war crimes chamber). In addition, I have provided advise (to states, state organs, individuals, and legal entities) and training (including to judges, prosecutors, law enforcement agencies, members of armed forces, counsel) in more than two dozen states on several continents on the subject of international criminal law and international humanitarian law.

Among the most relevant aspects of my career in this field are the following:

- I am a Judge at the Kosovo Specialist Chambers (KSC) since 2017;
- I am currently a Judge and member of the Trial Panel hearing the case of *Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi* (KSC-BC-2020-06), in which the Accused are charged with ten counts of war crimes and crimes against humanity;
- I was also a Judge and member of the Trial Panel in the case of *Prosecutor v. Hysni Gucati and Nasim Haradinaj* (KSC-BC-2020-07), which pertained to allegations of intimidation of witnesses and interference with the administration of justice;
- I have acted as counsel and consultant before the ICC, and advised a number of States and state organs in respect of investigations and preliminary examinations before the ICC; in particular, I was consultant for the defence team of Jean-Pierre Bemba (*Prosecutor v. Bemba*) and counsel for a protected witness;
- I was defence counsel for a number of defendants who appeared before the ICTY, including General Sefer Halilović, former Minister of Interior of (then) FYROM, Ljube Boškoski, and General Ante Gotovina (the last one as appellate counsel only);
- I was (appellate) defence counsel in a case before the ICTR (*Prosecutor v. Ngirabatware*);
- I acted as defence counsel before the Special Tribunal for Lebanon (STL) in the first international terrorism case (*Prosecutor v. Ayyash et al*) regarding the assassination of former Lebanese Prime Minister, Rafik Hariri;
- I was consultant for the Defence office of the ECCC and then consultant for Khieu Samphan, former Head of State of Cambodia and defendant before that jurisdiction (*Prosecutor v. Khieu Samphan*);
- I provided advise to states and state organs, in particular, in respect of national investigations and prosecutions of international crimes and provided training to a number of states, international organisations, individuals and legal entities, and state organs in respect of investigations and prosecutions of international crimes

(including in Uganda, the United Kingdom, Sweden, Iraq, Bosnia-Herzegovina, and Canada);

- Between 1999-2003, I was a legal officer at the ICTY, providing legal advice to Judges of that tribunal; I also provided legal advice and assistance to Judges of the ICTR Appeals Chamber in relation to a number of appeals.

As is apparent from the above, I have dealt with large and complex criminal cases for almost three decades. Among those cases are the following before international(ised) criminal courts and tribunals:

- Prosecutor v. Taçi et al (KSC).
- Prosecutor v. Gucati and Haradinaj (KSC);
- Prosecutor v. Bemba (ICC);
- Protected witness X (ICC);
- Prosecutor v. Ayyash et al (STL);
- Prosecutor v. Halilović (ICTY);
- Prosecutor v. Boškoski et al (ICTY);
- Prosecutor v. Gotovina et al (ICTY);
- Prosecutor v. Bobetko (ICTY);
- In the case of Florence Hartmann (contempt proceedings) (ICTY);
- In the case of Berko Zečević (contempt proceedings) (ICTY);
- Prosecutor v. Mico Stanišić et al (ICTY);
- Prosecutor v. Prlić et al (for General Milivoj Petković) (ICTY);
- Prosecutor v. Bagilishema (ICTR);
- Prosecutor v. Nbirabatware (ICTR);
- Prosecutor v. Khieu Samphan (ECCC);
- Prosecutor v. Kunarac et al (ICTY);
- Prosecutor v. Krnojelac (ICTY);
- Prosecutor v. Vasiljević (ICTY);
- Prosecutor v. Krstić (ICTY);
- Prosecutor v. Milutinović et al (ICTY); and
- Prosecutor v. Slobodan Milošević (ICTY).

I have also been involved as consultant in a number of complex criminal investigations and/or prosecutions of international crimes at the domestic level, including in Bosnia-Herzegovina ('Trusina' case) (State Court of Bosnia-Herzegovina), the United Kingdom (war crimes investigations), Uganda (Thomas Kwoyelo case), Sweden ('Lundin case'), and three cases of international extraditions involving individuals charged with international crimes (involving the United Kingdom, Austria, Switzerland, Bosnia-Herzegovina and Serbia). I have also provided advise to states and state organs in respect of ongoing ICC preliminary investigations and/or investigations.

In the above roles, I have literally dealt with thousands of decisions and submissions involving complex legal and factual issues, including in respect of procedural (e.g., disclosure; protective measures), evidential (e.g., admission of statements of co-defendants), and substantive (e.g., definition of international crimes, and modes of liability) issues.

In addition, for almost a decade (2012-2021), I was a member and then Chairperson of EULEX's *Human Rights Review Panel* (HRRP), an independent quasi-judicial body responsible for ensuring compliance by the EULEX Mission with its human rights obligations in the execution of its executive mandate. This body produced important legal guidance regarding the application of human rights standards to an international mission (<https://hrrp.eu/> and, in particular, https://hrrp.eu/Case-Law_Notes.php).

Since May 2018, I have also been the Chairperson of the Appeal Board at the Permanent Court of Arbitration (PCA). The Appeal Board is competent to decide staffing disputes within the PCA and decides its cases based on internal regulations and international administrative law and practice.

I was also retained as an expert and advisor in a number of other domestic and international cases.

As scholar,

- I have been teaching international criminal law and procedure at various universities for decades; today, I am an Adjunct Professor at the University of Galway, and participate yearly in its International Summer School program on the ICC;
- I have published a large amount of scholarly books and articles on international criminal law, including leading works on the law of genocide, crimes against humanity, command responsibility, and the work of the *ad hoc* Tribunals:
 - *International Crimes – The Law and the Practice : Volume 1: Genocide* (Oxford University Press, 2019): <https://global.oup.com/academic/product/international-crimes-law-and-practice-volume-i-genocide-9780198843115?cc=us&lang=en&>;
 - *International Crimes – The Law and the Practice : Volume 2: Crimes Against Humanity* (Oxford University Press, 2020): <https://academic.oup.com/oxford-law-pro/book/57765>;
 - *The Law of Command Responsibility* (Oxford: Oxford University Press, 2009): <https://global.oup.com/academic/product/the-law-of-command-responsibility-9780199559329?cc=us&lang=en&> (2009 Francis Lieber Prize – Lieber Society of the American Society of International Law); and
 - *International Crimes and the ad hoc Tribunals*, (Oxford: Oxford University Press, 2005) (<https://academic.oup.com/book/32623>).

- I am the author of two commentaries of the forthcoming ICRC revised commentaries on Additional Protocols I-II to the 1949 Geneva Conventions;
- I have also published a significant number of academic articles in law reviews (which are listed in my curriculum vitae); most recently, I have published an article on the history of the notion of war crimes in the International Review of the Red Cross (<https://www.cambridge.org/core/journals/international-review-of-the-red-cross/article/history-of-the-law-of-war-crimes/835F893E8E563F511FBEC967CC2B761D>).

5. Please describe any experience you have applying:

- **the Rome Statute;**
- **international criminal law;**
- **international humanitarian law;**
- **domestic legislation incorporating international crimes;**
- **the jurisprudence of the ICC or ad hoc tribunals; or**
- **universal jurisdiction.**

See above question 4. In addition, I have acted as counsel and consultant in a number of cases and situations before the ICC for more than a decade. I was also consultant of the first Registrar of the ICC (Bruno Cathala) during the first plenary of Judges of the ICC.

I was also the principal author of an expert report on the effectiveness of the ICC (2014), which covered various aspects of the structure and functioning of the ICC: https://asp.icc-cpi.int/sites/asp/files/asp_docs/ASP19/Ind_Exp_Initiative.pdf.

I have written several scholarly books, which cover certain aspects of the legal regime and jurisprudence of international criminal courts and tribunals (including the ICC) as well as domestic legislations on international crimes (see above under question 4). These cover, inter alia, the law of international crimes, modes of liability, jurisdictional issues (including universal jurisdiction).

On international humanitarian law specifically, I would highlight a recent article that I wrote (<https://www.cambridge.org/core/journals/international-review-of-the-red-cross/article/history-of-the-law-of-war-crimes/835F893E8E563F511FBEC967CC2B761D>) and the third, upcoming, volume of my compendium on international crimes which will deal with war crimes. I am also the author of a number of commentaries in the upcoming, revised, ICRC Commentary to Additional Protocol I.

As a Judge at the KSC, I would also highlight the fact that my colleagues and I have relied extensively upon the practice and caselaw of the ICC when drafting our Rules of Procedure and Evidence and in our jurisprudence in respect of a variety of issues, including victims' participation and the redaction regime.

6. Please identify any judicial decisions, legal opinions, or pleadings you authored or contributed to that are particularly relevant.

As a legal officer of the ICTY and ICTR, I participated in the drafting of many Judgements and decisions, including at trial and appeals level. Some of the cases in which I did so are listed above (question 4).

Also, as a Panel member and then Chairperson/President of the Human Rights Review Panel, I authored many of the decisions it rendered during my tenure (see <https://hrrp.eu/>, in particular, <https://hrrp.eu/cases.php> and https://hrrp.eu/Case-Law_Notes.php).

As a Judge of the Kosovo Specialist Chambers, I have been a member of Trial Panel II, which heard two cases: *Prosecutor v. Hysni Gucati and Nasim Haradinaj* (KSC-BC-2020-07); and *Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi* (KSC-BC-2020-06). Between those two cases, my Panel rendered over 1000 decisions and orders, some orally and some in writing.

As counsel, I authored many pleadings in the cases in which I appeared (see list above under question 4). I was also retained in a number of cases as consultant, expert, or advisor and contributed in those capacities to the drafting of pleadings before many courts and tribunals, some domestic and some international(ised).

List B — International Law Experts

7. Please describe your experience in public international law, international humanitarian law, international human rights law, and/or international criminal law, including:

- litigation;
- legal advisory work;
- investigations;
- treaty interpretation; or
- institutional practice.

8. Please identify publications, legal opinions, submissions, or other professional work you authored or co-authored that are particularly relevant to the work of the ICC.

Victims' Rights

Victim participation is a defining feature of the Rome Statute system and central to the legitimacy of the International Criminal Court. However, civil society and victims' representatives have raised concerns regarding increasingly restrictive approaches to participation, inconsistent jurisprudence, and procedural barriers that undermine meaningful engagement.

9. What, in your view, are the principal obstacles to meaningful victim participation and reparations before the ICC, and how should judges address them in practice?

Concerning *participation*, obstacles include the following: (1) *effective representation*: the effectiveness participation of victims depends in part on the quality of representation. It is critical that victims before the ICC – and other international(ised) criminal courts – should have the benefit of experts and experienced counsel. (2) *adequate resources*: in addition to effective representation, participating victims should have adequate resources not just to retain experienced counsel but to conduct necessary preparation and presentation of its case (e.g., for the purpose of instructing experts; to conduct necessary investigations). (3) *security environment*: the ability of victims to participate meaningfully and effectively depends also on the ability of the Court to guarantee the safe interviewing, participating and, as the case may be, testifying of victims in proceedings. Several of the cases and situations before the ICC are taking place in a complex environment in which the safe and secure participation of victims is extremely complex. In 2010, I edited a symposium on Victims' Participation in international criminal justice for the *Journal of International Criminal Justice* (vol 8, issue 1, March 2010).

As for *reparations*, I can see two primary obstacles: (1) adequate financial resources; (2) form of reparation. Regarding the first issue, there is little that Judges can do other than to signify to States, through their decisions, what they regard and consider to be adequate financial reparation. Regarding the second issue, international crimes are difficult to measure in restorative terms, in particular due to their magnitude and the long-term effect that these crimes can have on the individuals concerned and related communities. I note in this regard the recent Reparations Order, issued by Trial Chamber X of the ICC in the case of Al Hassan (ICC-01/12-01/18-2782, 28 April 2026), which provides for an innovative and, in my view, effective manner of providing for reparation, in particular in respect of the 'collective' aspects of this Order. It will be for the Judges of the Court to continue working with victim communities and experts in this field to find appropriate reparative and restorative ways that reflect the nature of the crimes and their consequences and which the Court is in a position to grant.

10. How can judges ensure that proceedings and trials remain accessible and meaningful for affected communities while respecting the rights of the accused?

As a preliminary matter, I would underline the fact that the rights of the accused and those of victims are not per se inconsistent. Many legal systems, in particular those of the civil law tradition, have extensive experience in accommodating these two sets of rights in a single judicial process. So have a number of international(ised) criminal jurisdictions.

In respect of this issue, I note that Judges are to give effect to Articles 64(2) and 68 of the Statute. Article 64(2) of the Rome Statute provides that the Trial Chamber shall ensure that a trial is fair and expeditious and is conducted with full respect for the rights of the accused and due regard for the protection of victims and witnesses. Article 68 (in particular, paras 1, 3 and 5) makes it clear that measures decided to ensure the protection and participation of victims in proceedings shall not be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial. This, however, does not render the rights of victims and those of the accused incompatible. Both sets of rights must be guaranteed and be effective.

In my experience of certain tribunals in which I practiced and at the KSC, it has been my experience that accessibility can be promoted and enhanced by the Court's outreach. For instance, videos (or other material) providing general and accessible information about the work of the Court can help for that purpose. See, e.g., <https://www.scp-ks.org/en> and <https://www.irmct.org/specials/1000words/index.html>.

In respect of participating victims, it is sound practice for the bench to seek to lay out the general principles that it intends to apply in the regulation of that relationship in order to avoid or pre-empt potential points of friction between participating victims and Defence and limit the amount of litigation that could otherwise result from such frictions. Trial Panel II of the KSC of which I am a member thus issued an 'Order on the Conduct of Proceedings' prior to the commencement of trial that sought, inter alia, to regulate the role and responsibilities of participating victims in light of their role and in compliance with the fundamental right of the accused to a fair trial. See, again, *The Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi*, KSC-BC-2020-06, Order on the Conduct of Proceedings, Annex 1, 25 January 2023: <https://repository.scp-ks.org/LW/Published/Filing/0b1ec6e980df5b83/Annex%20to%20Order%20on%20the%20Conduct%20of%20Proceedings.pdf>), paras 32-36.

11. Please provide examples of how you have incorporated victim-centered or trauma-informed approaches in your professional work.

First, as a Judge at KSC, I and my colleagues adopted Rules of Procedure and Evidence which largely reflect those of the ICC on this point, with the necessary adaptations required due to their different architectures (e.g., the absence of a Trust Fund for Victims at the KSC). These Rules provide a solid basis for meaningful engagement by victims. Second, we also adopted various practices that were intended to ensure the effective and meaningful participation of victims in a manner consistent with the fundamental rights of the Accused. See: The Prosecutor v. Hashim Thaçi, Kadri Veseli, Rexhep Selimi, and Jakup Krasniqi, KSC-BC-2020-06, Order on the Conduct of Proceedings, Annex 1, 25 January 2023: <https://repository.scp-ks.org/LW/Published/Filing/0b1ec6e980df5b83/Annex%20to%20Order%20on%20the%20Conduct%20of%20Proceedings.pdf>), paras 32-36. In total, more than 150 victims were admitted to participate in the proceedings. Third, in interpreting and applying our Rules and approaching the question of victims' participation, we informed our decisions with the practice and jurisprudence of other jurisdictions, not least the ICC. We have done so in the same spirit as was done for the Parties, namely, that their involvement should be as effective as possible. For instance, Trial Panel II permitted on a number of occasions the resumption of participation in respect of relatives of a (direct or primary) victim if and when deceased. We also decided that a proposed expert witness tendered by Victims Counsel qualified as an expert in respect of the calculation of capitalised income loss; three expert reports tendered by Victims Counsel were subsequently admitted in relation to the mental and physical consequences of the harm allegedly inflicted upon victims; evidence regarding the claimed harm was also received from the bar table; various protective measures were also granted to ensure the safe participation of victims in the proceedings in a manner consistent with the fundamental rights of the Accused.

In this context, I would also mention my work as a Panel member and then Chairperson of the Human Rights Review Panel (<https://hrrp.eu/>). This quasi-jurisdiction was intended to receive complaints of human rights violations attributed to the EULEX Rule of Law mission (Kosovo) in the context of its executive mandate. It received and addressed many such complaints and provided adequate relief (within the scope of what it was permitted to grant) in respect of individuals whom it found to have been victims of such violations. The Panel provided an avenue of justice and accountability for victims of rights violations that would not otherwise have been available to them.

As defence counsel, I have also systematically endeavored to treat victims who appeared as witnesses with respect and courtesy and avoid any risk of re-traumatisation.

Defence Rights

12. Please describe your experience safeguarding fair trial rights, including:

- **equality of arms;**
- **disclosure obligations;**
- **presumption of innocence;**
- **granting interim release;**
- **protection against undue delay; and**
- **the rights of detained persons.**

I served as counsel in a significant number of major international criminal cases, before various international(ised) criminal jurisdictions (including, ICTY, STL, ICTR and ICC); see above. In all those cases, I sought to preserve and guarantee the fundamental rights of my clients, including all of the rights outlined above.

Similarly, as a Judge of the KSC, we have been applying and safeguarding these and other fundamental rights of the Accused in various cases. See Law No.05/L-053 On Specialist Chambers and Specialist Prosecutor's Office (https://www.scp-ks.org/sites/default/files/public/05-l-053_a.pdf), arts 1(2), 2, 3(2)(e), 21 and 21. We had to do so in a complex environment in which we also had to ensure and guarantee the effectiveness of the rights and security of participating victims (see above).

I have also provided advice in various cases in respect of due process issues (including sports arbitration and war crimes cases).

High Moral Character, Independence, and Impartiality

13. Article 36 of the Rome Statute requires judges to be persons of “high moral character, impartiality and integrity.” What do these qualities mean in practice, and how have you demonstrated them throughout your career?

High moral character, impartiality and integrity mean inter alia full independence and impartiality in conduct and decision-making process; the performance of judicial functions without favor or fear and with probity and integrity and in a manner consonant with judicial responsibilities; the professional ability to perform these judicial functions for which one has been elected; and strong commitment to professional and ethical standards set for Judges.

In this regard, I note that I have a record of professionalism and commitment to the underlying ideals of the Rome Statute. I have worked for three decades in a variety of capacities to uphold those standards and maintain a high level of professional standards. I was subject to multiple vetting processes over the years and I have served with professionalism and dignity as a Judge of the Kosovo Specialist Chambers since 2017.

14. Have you ever been subject to (whether professionally or personally):

- **disciplinary proceedings;**
- **allegations of misconduct;**
- **allegations of harassment, bullying, discrimination, abuse of authority, or sexual misconduct;**
- **investigations concerning professional ethics; or**
- **allegations of fraud**

If yes, please explain the circumstances and outcome.

All through my career, I have been and continue to be subject to very strict standards of professional conduct. I have never been found guilty of any professional misconduct. Nor have I been subject to disciplinary proceedings, investigation concerning professional ethics, nor to any founded complaints of misconduct, harassment/bullying/etc, or fraud in any of the jurisdictions in which I practiced. As part of the vetting as well as due diligence process applied to all candidates to the ICC, I have provided detailed information on my professional and personal circumstances.

15. Have you ever taken a leave of absence or been suspended from a position following allegations or concerns relating to professional conduct or workplace behavior? If yes, please explain.

No.

16. Please describe a situation in which you faced political, institutional, or personal pressure that could have affected your professional independence. How did you respond?

In a number of sensitive cases that I was involved in, I have been subject to threats, internet ‘trolling’ and harassment, and made aware of various attempts to influence (directly or through proxies) and attack my (and my colleagues’) reputation. I have always ensured that such improper attempts would not affect my independence and ability to fulfill my obligations.

Management and Workplace Culture

17. The ICC has faced sustained concerns regarding workplace culture, including allegations of bullying, harassment, discrimination, retaliation, and abuse of authority. What role should ICC judges play in addressing these issues?

Judges can and should play a significant part in contributing a sound and safe workplace culture. As a Judge of the KSC, I was part of the plenary of Judges that adopted the Judges' Code of Ethics. This was the first normative instrument adopted by KSC Judges, thereby signifying their collective commitment to accountability and high ethical standards. That Code provides for a clear and effective mechanism of accountability should a Judge be thought to have engaged in professional misconduct (https://www.scp-ks.org/sites/default/files/public/content/documents/ksc-bd-01-rev1_code_of_judicial_ethics.pdf). I would support the adoption of a similar system at the ICC, which would serve to remind Judges that they are accountable and staff that they have recourse where they believe to have been victim of unfair or improper treatment by a Judge. It also ensures that complaints are made in good faith rather than maliciously and treated with the requisite level of due process for those involved.

Efforts by Judges to build and maintain a strong judicial culture that is based on a collective spirit and shared values would also be an essential contribution to ensuring a healthier work environment at the Court. The KSC has a zero-tolerance policy for harassment and similar conduct that seeks to achieve that goal.

Workplace issues can result from a number of factors, one of them being difficulties associated with the stress, pressures and demands of a judicial environment (in particular, a criminal law environment). In order to address some of these difficulties, the Court should seek to ensure that Chambers' staff has adequate experience in the judicial field, in particular as practitioners.

18. Please describe your experience managing teams or institutions, including:

- **promoting respectful workplaces;**
- **responding to misconduct allegations;**
- **supporting diversity, equity, and inclusion;**
- **addressing power imbalances within institutions; and**
- **improving workplace culture or staff wellbeing.**

As a Judge of the KSC, I have been part of a range of institutional efforts to guarantee and promote a safe and respectful work environment that does not discriminate and which does not tolerate misconduct. *First*, as already noted, I and the other Judges who were on the KSC Roster in 2017 adopted a Code of Judicial Ethics which sets high standards of conduct for all KSC Judges. That Code also provides for the possibility for any staff member to file a complaint if and when it is considered that a Judge has failed to comply with his or her ethical obligations. *Secondly*, the KSC (under the authority of its President, Registrar and Prosecutor) has put in place a zero-tolerance policy on harassment and abuse of staff. This

has been implemented all through the institutions. *Thirdly*, Judges of my Panel have an open-door policy where all staff working for us can meet and discuss with Judges any matter relevant to the case or to their work. Regular meetings occur among legal officers and more senior lawyers are in charge of coordinating the work of the Panel. Interactions and communication are at all times respectful and accounts for the experience and position of each and all concerned. *Fourthly*, consistent with the Rules, deadlines are set after consultation with all relevant parties and staff. Such deadlines must account for the rights and interests of all concerned and the fact that the drafting of decisions and judgments must often account for the involvement of several people and multiple reviews. *Fifthly*, various steps and measures have been taken to contribute to a positive working environment. For instance, the KSC has a welfare advisor, who can provide support and assistance to staff. Working hours for staff are reasonable and account, inter alia, for the fact that several staff members have parental responsibilities. Home working is authorised and used extensively, including in my Panel. Social occasions have been organised with some regularity at Chambers or Panel level, which contribute to a sense of the collective. Staff retreats (as well as judicial retreats) have been organised and contributed to creating a collective spirit.

Regarding diversity, equity and inclusion the KSC's policy has been committed to recruit highly qualified professionals on the basis of relevant competence and experience, on the broadest possible geographical basis, respecting the principle of non-discrimination and striving for gender balance. The KSC's three heads of organs (President; Registrar; Prosecutor) are women. Staff also meets the goal of gender balance.

Thematic and Intersectional Expertise

19. What do you consider to be the most important developments in ICC jurisprudence concerning:

- **sexual and gender-based crimes;**

The ICC has built upon the legacy of other international criminal tribunals on that subject (e.g., *Prosecutor v Kunarac et al*; *Prosecutor v Akayesu*). In particular, and for instance, the Katanga, Ongwen, Ntaganda, Al Rahman, Al Hassan, and Bemba cases all featured aspects of this sort of criminality. In so doing, the ICC has signified the importance of this type of criminality by prosecuting many incidents of sexual and gender-based crimes.

The Court has also contributed jurisprudentially to defining some of these crimes or elements thereof, e.g. by: specifying that the crime against humanity of persecution may be gender-based if male and female members of the group are targeted in different ways or for different forms of violence depending on their gender (*Al Hassan* Trial Judgment, para. 1567);

emphasising that the crime of forced marriage is not necessarily sexual in nature but entails a “gendered harm”, which is essentially the imposition on the victim of socially constructed gendered expectations and roles attached to “wife” or “husband (*Ongwen*, Judgment on the Appeal of Dominic Ongwen against the Trial Judgment”, 15 December 2022, para. 1024); defining the *mens rea* of the crime of rape (see, in particular, *Katanga*, Decision on the Confirmation of Charges, para. 441); providing clear definitional guidance in relation to the crime of forced pregnancy (e.g., *Ongwen* Trial Judgment) and sexual slavery (*Ongwen* Trial Judgment and *Al Hassan* Trial Judgment).

In its jurisprudence on reparation, the Court has also emphasised that a gender-inclusive and sensitive approach should be adopted when applying the ‘balance of probabilities’ standard to sexual crimes and account for the particular evidential challenges faced by victims of sexual and gender-based crimes. See, in particular, *Ongwen*, Reparations Order, 28 February 2024, paras 425, 469.

Also worthy of mention in this context are the decision in the *Bemba* case granting leave to file submissions (on cumulative charging) (Decision on Request for Leave to Submit Amicus Curiae Observations Pursuant to Rule 103 [...], 17 July 2009), and the decision in *Lubanga* regarding gender parity in all aspects of reparations (Decision Establishing the Principles and Procedures to be Applied to Reparations, 7 August 2012, para. 202).

- **crimes against children; and**

The *Lubanga* case and jurisprudence arising from that case was of great significance to the law regulating international crimes against children. See, in particular, *Lubanga* Trial Judgment, in respect of the conscription, enlistment and use of child soldiers. See also *Katanga* Trial Judgment. This jurisprudence has clarified the elements of these offences. It has also clarified a number of important normative aspects of these offences, including: that although it may be the case in some instances that the purpose behind conscription and enlistment of child soldiers is the use of children in hostilities, this is not a requirement of the Rome Statute (*Lubanga* Trial Judgment, para. 609); that the crime of enlisting or conscripting children is a continuous offence which continues until the child leaves the group or reaches the age of fifteen (*Lubanga*, Decision on the Confirmation of Charges, para. 248; *Lubanga* Trial Judgment, para. 618).

Other jurisprudence is also of relevance here. For instance, in *Ongwen*, the Trial Chamber authorised victims to call expert witnesses on issues of the consequence of being a child soldier, being a victim of sexual and gender-based crimes, and Acholi customs, and the harm suffered by the community. See Decision on the Legal Representatives for Victims Requests

to Present Evidence and Views and Related Requests, 6 March 2018, paras 29, 36, 40, 45, 67. In *Yekatom*, the Trial Chamber accepted that a child born after her mother's deportation was authorized to participate as a victim in the case where her harm alleged was to be born in a refugee camp following her mother's deportation (see Nineteenth Decision on Victims' Participation in Trial Proceedings, 13 March 2023, paras 11-12).

I note that crimes against children (other than conscripting/enlisting/using child soldiers) are under-represented in cases before the ICC (and international(ised) criminal tribunals generally). In this context, I note the OTP's Policy on Children (<https://www.icc-cpi.int/news/policy-children>). This policy could be taken to indicate that this category of crimes might take greater investigative and prosecutorial importance in future cases.

- **gender-competent and intersectional approaches to investigations and adjudication?**

The Court has acknowledged that a victim can suffer a higher risk of victimisation because of the intersection of different factors of discrimination (e.g., *Al Rahman* Trial Judgment, para. 787; *Ntaganda* Trial Judgment, para. 1009; and *Al Rahman* Trial Judgment, para. 787). The *Ntaganda* Reparations Order (in particular, para 60 and fn 153) provides some insight into the relationship and differences between multiple discrimination and intersectionality as understood under the Rome Statute. A Judge of the ICC has also opined on the matter in a recent Concurring Separate Opinion (<https://www.icc-cpi.int/sites/default/files/CourtRecords/0902ebd180efdc74.pdf>).

Once again, I note that the OTP has adopted two policies that deal specifically with gender violence and crimes (<https://www.icc-cpi.int/news/policy-crime-gender-persecution>; and <https://www.icc-cpi.int/news/policy-gender-based-crimes>). This demonstrates a high degree of prosecutorial awareness of the importance of this topic to its work. And both of these instruments highlight the importance and relevance of the question of intersectionality, which is likely to be reflected in future investigations.

20. What challenges continue to impede accountability for these crimes before international courts?

There are both general and specific challenges. Regarding *general* challenges, they affect the ability of the ICC (and other international-ised) criminal court to fully and effectively perform their work. This includes lack or selective cooperation; security challenges associated with the investigation and prosecution of such case; failure to arrest suspects; attempts to intimidate Court officials and other actors associated with the ICC through sanctions (or the threat thereof). Regarding *specifically* gender-based crimes and crimes against children, there are additional issues of stigma in some cases that might affect a victim's willingness to

come forward or testify; access to many of the victims; availability of expertise devoted to these categories of crimes. These two categories of challenges intersect in some of the cases and situations relevant to the ICC, thereby combining to make the effective investigation and prosecution of such crimes a particular challenge.

21. Crimes are rarely experienced along a single axis of identity. How would you approach a case where victims were targeted on the basis of intersecting identities – such as gender, age, disability, ethnicity or sexual orientation – and how would you use the legal tools offered within the Rome Statute to capture that complexity?

Please see my answer above concerning the Court's jurisprudence on intersectionality (question 19). In addition, I would note that several of the statutory crimes account for the question of the identity of the victims or the presence of discriminatory considerations in the commission of certain crimes (e.g., genocide; persecution; apartheid). The presence of multiple grounds of discrimination based on intersecting identities is factually not uncommon and can be captured normatively under the umbrella of discrimination-based offences (including the crime of persecution) and/or in the factual descriptions of events involving such acts. The presence of more than one single ground of discrimination or motive for targeting certain individuals or communities could also be evidentially relevant to establishing relevant patterns, policies or intent attributable to an individual or group of individuals. The judicial underlining of such intersectionality where it is present might also constitute an important element of 'acknowledgment' to which a victim is entitled (see, e.g., KSC Law No.05/L-053 On Specialist Chambers and Specialist Prosecutor's Office (https://www.scp-ks.org/sites/default/files/public/05-l-053_a.pdf), art 22, para. 3).

22. What is your understanding of and views about outreach at the ICC, including during preliminary examinations? What role should the judiciary play in ICC outreach?

International(ised) criminal courts and tribunals, including the ICC, operate outside of the countries to which their cases relate. The proceedings of these courts and tribunals might therefore not be readily accessible to individuals and communities that are most concerned by those. Outreach is one of the most important means by which such an institution can reach into the relevant countries and communities to impart information about the work of these jurisdictions. See: <https://www.icc-cpi.int/about/outreach>.

Outreach, in particular during preliminary examinations, can also play another dual role: (1) to provide a fact-based alternative to politicised and biased narratives regarding the work of the Court; (2) to provide a clear(er) understanding of the work of the Court, which might in turn encourage relevant communities to cooperate with it.

Judges should refrain from discussing publicly cases on which they sit and refrain from any conduct or statement that could call into question their independence and impartiality. The Presidents of international(ised) criminal courts do, however, play an important quasi-diplomatic and public outreach role in giving visibility to the institutions and articulating their vision and activities. They also play a critical role in putting informed, credible and factual information into the public domain, which might help counter false narratives targeting these institutions.

One way in which Judges can play a useful function of communication is to be mindful of the fact that their judgments and decisions are of relevant to various communities of interested individuals and to ensure that these judgments and decisions are accessible and can be well understood by all those concerned. Judges could also play a relevant role in that context by reaching out to other judicial and academic institutions of relevance to the work of the Court. In this way, they make the work of the Court more familiar to other institutions and contribute to making the Court part of a wider professional and institutional architecture.