

2023 election of the registrar of the International Criminal Court
Questionnaire to candidates

Name: Fidelma Donlon

Date: 10 September 2022

Please reply to the following questions by Sunday 11 September 2022:

Vision for the ICC Registry:

1. Why have you applied for the position of registrar of the International Criminal Court (ICC)?

My career in, and steadfast commitment, to international criminal justice has inspired me to apply for the position of Registrar of the ICC.

As Registrar of the Kosovo Specialist Chambers (KSC) and previously the Deputy Registrar of the Special Court for Sierra Leone (SCSL), and the Bosnian War Crimes Chambers (BiH Chambers), I successfully manage diverse teams, designing and delivering services that ensure the highest-quality administrative and judicial support to assist Judges, and other participants in Court proceedings, to conduct fair and expeditious trials. I instill the values of mutual respect and teamwork in the workplace whilst ensuring the sound management of funds and human resources.

I believe my experience and competencies will enable me to advance on the implementation of agreed IER recommendations, and lead ICC Registry staff to ensure the flexibility, responsiveness and resilience required to meet the demanding deadlines and changing business needs in the dynamic ICC environment.

2. What do you believe are the top two or three challenges confronting the ICC and Rome Statute system in the coming years, and how would you address them, focusing in particular on the role of the ICC Registry?

In the coming years, the ICC faces the challenges of increasing the effectiveness and expeditiousness of its core activities across the 16 situations before the Court, while at the same time strengthening the impact of its work. I would be privileged to serve the Court by applying my in-depth knowledge of all aspects of Registry operations and the lessons I have learned throughout my career, to build on the progress achieved in recent years and continuously improve the services delivered.

To enhance the Registry's capacity to provide the excellent management, judicial, and external operations services needed to assist all organs of the Court, I would promote an environment of inclusive leadership and mobilize resources across the Registry to generate new ideas and explore lessons learned.

To maintain funding and the confidence of States Parties, I would fully support transparent budgeting that is aligned with court-wide and organ specific strategic plans. In addition, as KSC Registrar I have found that the careful setting of staff performance goals, to ensure the goals are aligned with strategic plans, is a key management function that has helped maximize KSC resources. To further optimize resource management, I have successfully devised and implemented procedures for staff mobility at the KSC. I would promote the development of similar procedures at the ICC Registry.

From my experience of eCourt systems, to facilitate simultaneous proceedings and avoid interruption in trials, I believe it will be vital in the coming years to ensure the secure and effective functioning of the Judicial

Workflow Platform and eDiscovery for evidence system. Fostering collaboration with other courts regarding their eCourt experience during trials as well as future enhancements to digital records systems and cloud-based services, will assist effective functioning and may optimize resources across the institutions.

To further improve the impact of the ICC, I would apply my experience, expanded upon below in question 7, to support an enhanced outreach strategy. Fostering two-way communication with victims and NGOs will help the Court to first, manage expectations about its core activities, second, meaningfully communicate with affected communities and third, ensure justice is seen to be done.

3. The Registry is a neutral organ of the Court that provides services to all other organs so the ICC can function and conduct fair and effective public proceedings. How would you describe the relationship of the ICC registrar vis-à-vis the ICC Presidency and the ICC Chambers; the Office of the Prosecutor? Additionally, how would you describe the relationship with the Trust Fund for Victims?

The Registry exercises its function of properly servicing the court by assisting victims, witnesses and the defence, as well as providing efficient operational and administrative support to help the Court conduct expeditious, fair and public proceedings. The Registrar should work in strong partnership with the other organs to support and stimulate progress in achieving Court-wide objectives as well as enhancing Court-wide culture. While each organ performs its statutorily assigned responsibilities, a unified approach to strategic planning, budgeting, staff well-being and accountability will help assure State Parties that their hard-earned contributions are spent in an effective and sound way and advance the success of the ICC and Rome Statute System.

To support the critical work of the Trust fund for Victims (TFV), the Registrar should provide the Board of Directors with high level governance advice and support. To support the Judges led reparation proceedings, collaboration between existing Registry Headquarters and country offices, could be further explored to identify ways to assist the TFV improve visibility as well as reparations implementation. A coordinated communication strategy underpinned by community involvement may bolster efforts to give clear messaging and clarity to affected communities about the work of the Court and the TFV.

Experience in management and addressing workplace culture issues:

4. Please describe your skills and experience relevant to the effective management of the ICC's human resources, including in addressing allegations of discrimination, harassment (including sexual harassment), bullying and/or abuse of authority on the part of staff members; in addressing the chronic imbalance in geographical representation and that of women in senior management positions; as well as addressing issues that disproportionately affect women, minorities and people of color.

By leading the organisational development of the KSC and BiH Chambers, I oversaw the design of staff plans (for contracted and seconded personnel) as well as the regulatory documents for the set up and functioning of the organisations, including Staff Rules, Codes of Conduct and Disciplinary Procedures.

I led the formulation of the KSC/SPO Anti-Harassment Strategy that sets out the concrete actions to promote and uphold a zero-tolerance policy against any form of harassment. 98% of all first- and second-line managers, members of the Staff Representative Body, as well as 70% of staff across the KSC/SPO have now completed bespoke training on the prevention of psychological and sexual harassment. Unconscious bias training has also been rolled out to staff and all members of recruitment panels.

As an International Gender Champion, I believe the creation of an organisational culture which allows everybody to openly discuss gender related issues is an important step to achieving gender mainstreaming. As KSC principal administrative officer, I foster dialogue across the organisation to hear and be responsive to

the concerns of all staff. I use monthly management reports on gender-specific data to monitor progress towards increasing the number of women working in the court and give my full backing to mainstreaming activities and the work of the gender focal point. Together with the Specialist Prosecutor, I have supported initiatives to increase the percentage of women working in the traditionally underrepresented field of security by hosting roundtables with senior security managers to discuss good practices, as well as implementing steps to encourage more female applicants.

As a result of various proactive management steps taken over the years, I am extremely proud that the KSC achieved gender parity at expert and management level posts.

I have adopted the Code of Conduct and uphold the core principle that any form of discrimination, harassment or abuse of power and authority at the work place are prohibited. Upon approval by the President, following consultations with the Judges, Specialist Prosecutor and Counsel representatives, I have also adopted the Code of Professional Conduct for Counsel and Prosecutors Before the KSC. My other responsibilities include the initiation of mediation and internal resolution processes, and the imposition of disciplinary measures, if any, at the conclusion of disciplinary proceedings. I represent the KSC in staff appeals proceedings.

As Registrar, I have also introduced a number of regulations focused on staff welfare and work-life balance. Remote and part time work arrangements as well as maternity and parental leave are regulated. Staff can also take compassionate/emergency leave. In order to allow staff to nurse and/or take care of their young children during working hours, personnel can take 1.5 hours per day during working hours and use a private room in the premises for childcare purposes.

5. What, in your opinion, does the Rome Statute requirement of “high moral character” mean and how do you embody these characteristics? What measures can be taken to ensure that all ICC officials and staff also embody the requirement of high moral character?

The Rome Statute requirement of “high moral character” demands full respect for the principles of integrity and accountability, together with adherence to the highest ethical standards. I behave and perform my duties with complete integrity, independence, discretion and dignity, in full compliance with the regulations of the various organisations I have worked in. I observe the highest standards of ethical conduct.

From my management experience, maintaining connectivity with all officials and staff to communicate the values of the organisation is key to its accountable and transparent functioning. Appropriate vetting for high moral character should be embodied in election and recruitment processes. In addition, bolstering induction programmes to ensure all newcomers are provided with proper training and guidance about the values and ethics principles embodied in regulatory documents is essential. Specific bespoke training on Codes of Conduct and Ethics, with particular attention on the safe reporting of misconduct, as well as the formulation and monitoring of Anti-Fraud Strategies will help safeguard staff and funds.

Participation of victims and affected communities

6. Please describe your experience and/or expertise in dealing with victim participation in proceedings. How would you manage the Registry’s role to ensure that the statutory right of victims to participate in proceedings is achieved in the most meaningful manner whilst ensuring efficiency and expediency?

As the Head of the KSC planning team, I prioritized the early functioning of the Victims Participation Office (VPO) to ensure the safe and meaningful participation of victims in future trials. I ensured EU support and financing to develop and build the capacity of the VPO and the Witness Protection and Support Office (WPSO). After the establishment of the court, as Registrar, I oversaw the development of an effective victims’ application process, which included consultation with the KSC President and affected communities, as well as

careful analysis of the best practices from other judicial institutions. Based on those consultations and the experience from other tribunals, the KSC introduced a streamlined application form and outreach strategy. I marshalled resources to conduct extensive early outreach to affected communities, NGOs, the legal community and journalists to raise awareness about the rights of participating victims' and explain the application process.

In the exercise of my responsibilities I was also substantively involved in devising the KSC Directive on Counsel, which sets out the requirements for Counsel to be admitted to the List of Counsel, and the Legal Aid Regulations. Following the determination of common representation by the competent panel, my responsibilities include the assignment of Victims' Counsel to a group of victims. In deciding to assign Counsel, I take the views, interests and preferences of the participating victims into account.

By careful budget planning and successful negotiations with States, I continue to ensure adequate resources for the VPO, Victims' Counsel and outreach activities. With a view to ensuring meaningful participation and contact with victims during proceedings, my decision on the Legal Aid Fee for Counsel takes into account important factors such as, the amount of time required to communicate with victims and any specific expertise required by Victims' Counsel.

7. The registrar has a special mandate vis-à-vis the outreach activities of the Court, especially regarding victims and affected communities. How will you ensure that outreach is carried out at the earliest stages of proceedings, including preliminary examinations, and how would you describe the roles and responsibilities of the Registry and other organs in these different phases? Please elaborate on any experience relevant to fulfilling this mandate, as well as your philosophy regarding the role of the ICC's field presence.

I am firmly committed to dynamic and effective outreach. From living and working in countries where atrocities were committed, and participating in events with civil society and affected communities across Bosnia and Herzegovina, Sierra Leone and Kosovo, I have gained valuable insights that assist my strategic input to outreach strategies. I would use my experience to encourage dialogue and collaboration across the ICC, with States Parties and NGO's about strengthening the work of the ICC Registry in this field. As Head of the KSC Planning team and Registrar I guided the development and implementation of the outreach programme.

To help manage expectations and give victims and affected communities' timely information, the programme is designed to first, cultivate knowledge about the mandate of the Court and second, evolve with the various stages of criminal proceedings. In consultation with civil society, the Court has produced factsheets, pamphlets, informative videos and infographics on topics ranging from the mandate of the KSC, the Rules of Procedure and Evidence, Indictment and Pre-Trial Proceedings, Victims' Participation, Court-Ordered Protective Measures, and Fair and Impartial Trials. The materials are permanently available on the KSC website in the three official languages of the Court and have been widely disseminated in the region and broadcast on television. The information materials are supplemented by outreach missions and a wide range of events through video-conference with civil society, the media, students and youth groups. By conducting Public Opinion Surveys and listening to the invaluable feedback and recommendations from the Court Information Network, the effectiveness of the programme is continuously reviewed.

8. The ICC has established constructive and long-term relationships with non-governmental organizations (NGOs) and the press. Please describe any previous experience you have working with NGOs. How do you see the Registry's role towards these actors?

As Deputy Registrar of the BiH Chambers, I supervised the work of the Public Information and Outreach team that set up the Court Support Network. The Network facilitated collaboration with NGOs and community groups throughout BiH to spread awareness about the work of the Court. In Sierra Leone, when I served as

SCSL Deputy Registrar, I learned many important lessons from participating in the excellent outreach programme which engaged with civil society through the Special Court Interactive Forum. By applying my experience from Bosnia and Sierra Leone, as KSC Registrar, I facilitated the set-up of the Court Information Network, a group of regional civil society organisations supporting and delivering regular feedback on the KSC outreach programme. The ongoing dialogue with NGOs helps the KSC shape the best outreach approach and informs tailor-made messaging to promote a better understanding of judicial proceedings. I believe by harnessing the capacity of the ICC's field presence and strengthening two-way communication with NGOs and communities, outreach activities will be better informed and more effective.

Fair trials and equality of arms

9. The ICC registrar is responsible for establishing the eligibility and qualifications of external counsel and team members and providing support to defence counsel and legal representatives of victims. Please describe your experience with these issues, including the administration of legal aid and providing access to necessary facilities and resources to protect the rights of the defence. Please also describe your experience in addressing issues such as gaps in gender equality and working conditions on external teams.

I have extensive experience planning, negotiating and delivering the regulations, facilities and financial resources essential to the rights of accused and participating victims.

Most recently, as KSC Registrar, I directed the preparation of and adopted the court's Directive on Assignment of Counsel and Legal Aid Regulations. The Directive prescribes the eligibility, qualifications and experience required for inclusion on, as well as modalities for withdrawal and removal from, the List of Counsel. I appoint/assign Counsel, including Victims' Counsel and Co-Counsel, and also approve team members.

I have overall responsibility for the legal aid system. Based on the complexity level of a case, in consultation with the competent panel and Counsel, I decide on the amount of the Legal aid fee and grant allotted costs for investigations and miscellaneous approved costs. In consultation with Victims' Counsel, I determine the parameters for the calculation of the Legal Aid Fee for a Group of Victims based on factors including, the modalities of participation as determined by the competent panel, and the expected time required to communicate with Victims taking into account their education, backgrounds and/or places of residence.

To address issues about working conditions on external teams, I have adopted measures that assigned Counsel shall include in their contract with team members. Specifically, in remunerating team members, legal associates, at a minimum, shall receive remuneration equal to the salary of a lawyer in the Host State, as annually indexed by the Dutch Bar Association. For support team members, at a minimum, the remuneration shall equal the minimum wage of the Host State. Counsel must also ensure that his/her professional insurance covers the activities of team members and that the working conditions of team members are in accordance with those of the State in which they primarily carry out their work.

The gender ratio of KSC Victims' Counsel teams is 50% male and 50% female. The ratio of Defence Counsel teams is 53% male and 47% female.

Cooperation with the court

10. Cooperation of states parties is key for the court to discharge its mandate. What measures or initiatives will you take to increase cooperation with the court, including to increase the number of cooperation agreements in particular for the release of persons, enforcement of sentences and witness relocation?

Throughout my career, I have fostered support and cooperation with States and concluded bilateral cooperation agreements. As a result, I am keenly aware of the persistence required and the difficulties related

to securing support. In my current role, to raise awareness and generate support, I manage intensive diplomatic engagement with Embassies in the Hague and also escalate discussions, as appropriate, to EU level and Capitals. I give my full support to the Witness Protection and Support Office and foster close collaboration with national authorities, international and regional organisations, as well as other networks. By remaining abreast of the changing needs of the court as well as circumstances in States, the KSC adapts approaches to identify potential new partners.

If I was elected ICC Registrar, I would seek to understand the strategies that have and have not worked for the Court. In an effort to secure more agreements for the ICC, I would apply my experience with engagements that have led to successful short- and long-term relocation agreements, humanitarian and welfare support arrangements, risk mitigation measures and enforcement agreements.

Experience in budgetary processes:

11. Please describe your experience preparing and being responsible for a large budget, including whether you have experience in working with a results-based budgeting system and with gender responsive budgeting. What strategies would you undertake in relation to the preparation, submission and examination of the ICC budget to ensure support by the Committee on Budget and Finance and states parties?

My experience and accomplishments include successful fundraising and budget planning and management. I have coordinated International Donors' Conferences, securing €27,000,000 voluntary donations from States to fund the BiH Chambers. As Head of the KSC Court Planning Team, I was able to ensure EU support and financing to develop the Court. This required the delivery of a five-year forecast and budget plan covering various contingencies.

In my current role, I am signatory to Grant Agreements on behalf of the KSC/SPO and ensure the coherent application of financial regulations and sound management of the biennial budget of €115,739,000. I would approach the ICC budget planning process and relationship building with the Committee on Budget and Finance and States Parties, in a similar way to my coordination of the preparation of the KSC/SPO budget and management of the budget process with the European Commission and EU Member States. This entails three critical elements, first, detailed strategic and budget planning, second, cooperative dialogue and third, robust resource management.

I am firmly committed to transparent budgeting and constructive dialogue during budget negotiations, together with the sound management of resources and staff performance during the budget period. Close coordination with the President and Specialist Prosecutor during preparation of the KSC/SPO budget ensures its alignment with judicial forecasts and the strategic goals of the organisations. An integral part of the budget process is the detailed technical scrutiny by, and negotiations of the budget with the European Commission in advance of its presentation to Member States.

To maximize resources throughout the budget period, cooperation with the President and Specialist Prosecutor enables the continual appraisal of operations and expenditure to identify efficiencies across the organisations. I also give clear direction on organisational objectives to Heads of Registry Divisions to ensure staff goals are aligned with objectives. These strategies, combined with a collaborative relationship with the European Commission and the drive to constantly ensure maximum resource management, have ensured the successful funding of the KSC/SPO since inception.

To ensure gender responsive budgeting, I have negotiated and allocated funds to provide for special programmes. Trainings on gender mainstreaming, the protection of victims of sexual and gender-based

crimes, unconscious bias, the prevention of psychological and sexual harassment, and leadership have been implemented. I also fully support the work of and initiatives by the KSC/SPO Gender Focal Point.

Thank you.