

## Draft Questionnaire for candidates to the 2020 ICC Judicial Election

Civil society<sup>1</sup> plays an important role in monitoring the election of International Criminal Court (ICC) officials. We promote fair, merit-based and transparent elections.

*Please answer the questions below.*

Name: **Victor Tsilonis**

Nationality: Greek

Nominating State: Greece

Legal Background (List A or List B): **List A**

Gender: Male

Date: 28/09/2020

### BACKGROUND

1. What motivates you to seek election as a judge of the International Criminal Court (ICC)?

As an ICC judge, I shall have the opportunity to confer justice and dedicate myself to the combat against international crimes. The most profound reason to seek this election is that I feel responsible to take all necessary actions for the protection of the vulnerable members of our global society and become an inseparable part of humanity's response towards the most heinous crimes, which flagrantly violate the core of human being. Towards this direction, I will demonstrate consistently integrity, tact, understanding, compassion, humility and open-mindedness.

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<sup>1</sup> This questionnaire is endorsed by the following organizations: African Center for Democracy and Human Rights Studies, UNA Sweden, Alhaq, ALTSEAN-Burma, Amnesty International, Asian Legal Resource Centre, The Australian Centre for International Justice, Congo Peace Initiative, The Colombian Commission of Jurists, FIDH, Georgian Coalition for the International Criminal Court, Human Rights Watch, Justice International, Nigerian Coalition for the ICC, No Peace Without Justice, Open Society Justice Initiative, Parliamentarians for Global Action, REDRESS, Reporters sans frontiers, StoptheDrugWar.org, The Swedish Foundation for Human Rights, World Citizen Foundation, Women's Initiatives for Gender Justice, World Federalist Movement/Institute for Global Policy, and the World Renewers Organization. This questionnaire was developed with the assistance of the Coalition for the International Criminal Court Secretariat.

Moreover, while being aware of the seriousness and complexity of the ICC judge's work, I would like to add value to the ICC by firmly applying the judicial oath: "I solemnly undertake that I will perform my duties and exercise my powers as a judge of the International Criminal Court honourably, faithfully, impartially and conscientiously, and that I will respect the confidentiality of investigations and prosecutions and the secrecy of deliberations". Being an old believer in the ICC's values and work, I would like wholeheartedly to put my knowledge, experience and personality to its use, service, and legacy.

To be more specific, in relation to my knowledge and experience:

As founder, chief executive officer and principal legal counsel of the niche Greek law firm Newlaw, I have a 16-year track record of excellence in handling criminal cases. During my career, I have honed my legal, administrative and public speaking skills to the level required by an ICC judge. Further, I am actively involved in the ICC's fora and thus familiar with the criminal proceedings of the Court. As a member of the ICC Disciplinary Board (2018-2022), I have tried a number of disciplinary cases. In 2019, I was elected Joint Vice President for Victims and Chairman of the Professional Standards Advisory Committee of the International Criminal Court Bar Association (ICCBA), the only Bar Association formally recognised by the Assembly of States Parties.

As a recognized expert in international law, I was selected to join the OSCE Consultancy Roster of Legal Experts in 2018 and the Roster of Experts of the International Nuremberg Principles Academy in 2017, and have been accepted as a member of the International Law Association and the European Society of International Law. I have taught postgraduates International Criminal Justice (2018–2019) at the Law School of the Democritus University of Thrace (Greece), participated in nine conferences and been invited to deliver several university speeches. Fourteen of my publications (12 papers and 2 books) cover the fields of

international criminal law, international criminal justice, international human rights, criminal law and procedure, and prisoners' rights.

Following my wide-ranging legal studies in the UK and in Greece, where I obtained a thorough knowledge of both common and civil law systems, I then decided to embark upon a PhD on the jurisdiction of the International Criminal Court. This ten-year plus research journey gave me the opportunity to utilise my knowledge of both common and civil law systems and provide me with a deep understanding of how the Rome Statute, an international legal framework with elements of both common and civil law, operates. I therefore have a uniquely well-rounded knowledge of the way legal systems work, whether they are founded upon civil law, common law or international legal frameworks.

Being already an alternate member of the ICC Disciplinary Board and having previously served as a junior legal advisor to the Office of the Prosecutor for the Former Yugoslavia (Milosevic case), I intend to utilise my experience and legal expertise, as well as my sound leadership and organizational skills, to serve ICC with distinction.

Finally yet importantly, my expertise as well as my dedication to the Court are captured in my recent book under the title: *The Jurisdiction of the International Criminal Court* (Springer, 2019) ISBN 978-3-030-21525-5, the product of over 10 years of research on the International Criminal Court. Like much of my work, this publication was inspired by the Court's values and reflects my profound belief in the Court's aims

2. What do you believe are the most important challenges and achievements of the ICC in its first 18 years?

To begin with, the ICC is the world's first permanent court mandated to bring to justice the perpetrators of the worst crimes. The Rome Statute of the International Criminal Court entered into force in July 2002 and in March 2003 the first 18 judges

of the court's bench were sworn in. Since then, the ICC has made significant progress, which was vividly depicted by the keynote speech for the 20th Anniversary of the Rome Statute of the second ICC President, Judge Sang-Hyun Song under the title "[Past Achievements and Future Challenges of the ICC](#)" on 17<sup>th</sup> July 2018.

I also believe the biggest achievement of the ICC and the Rome Statute is the creation of a permanent, sound, legal body that responds to international crime and works toward a more just, safe and humane world. The ICC's establishment sends a strong signal to current and would-be perpetrators that impunity for the worst crimes will not be tolerated any more. Simultaneously, the world knows that severe criminals must and can be held accountable – firstly by national courts, and if failing that, by the ICC. Moreover, it is of great importance that the ICC has chosen and achieved to place a sound emphasis on victims' protection, including women and children. In this direction, it has established a procedural fairness and it has also developed an outreach program linked to the countries where the Court has active cases, in order to inform the victims about their rights and assist them.

Furthermore, I would like to highlight the unique and complex nature of the ICC that generates opportunities and challenges at the same time as not only it is established by its States Parties, but also it can only function in cooperation with them. The ICC will investigate, prosecute, and try crime suspects, but States must assist the ICC for arrest warrants to be implemented, evidence to be provided, witnesses to be protected, and sentences to be enforced. Noteworthy, this cooperation goes beyond the above practical issues to the political support required. In that area, work has been done to face challenges in relation to the State Parties cooperation and most importantly to deal with the complexities often emerged due to choices of the world powerful countries. However, allow me to highlight that although the ICC operates in a political world, it must, and it always stays politically neutral and judicially independent. World justice requires the rule of law.

In addition to the above, a few words about the criticism that the ICC has received based on its decisions. One of the decisions that has had an important positive

impact in relation to the Court's perception vis-à-vis the States Parties and the public was **The Prosecutor v. Ahmad Al Faqi Al Mahdi** decision of Trial Chamber VIII of the International Criminal Court (ICC) in 27 September 2016. In this case, the Chamber unanimously found Mr Al Mahdi guilty beyond reasonable doubt as a co-perpetrator of the war crime of intentionally directing attacks against religious and historic buildings in Timbuktu, Mali in June and July 2012. On 22 August 2016, at the opening of the trial, Mr Al Mahdi pleaded guilty to the war crime consisting in attacking ten historic and religious monuments in Timbuktu (Mali) in June and July 2012. This was the first time an accused before the ICC admitted ab initio his/her guilt. The expeditious outcome of this case as well as the message to the international community that the Court is a principal protector of humanity's cultural heritage and fully respects victims' right to reparation to the best of the Trust Fund's resources (around €2,7 million for individual and collective reparations awards, with clear priority given to individual awards; in May 2018, the TFV Board allocated €1,350,000 and undertook fundraising efforts to secure the remainder) was heralded by the international press and media as clear evidence of the Court's strong will to promote justice, shield human civilization and care for victims.

On the other hand, one of the decisions which was *prima facie* viewed as having a negative impact in relation to its perception vis-à-vis the States Parties and the public was the **Bemba Appeals Chamber decision**. Leila N. Sadat eloquently summarized the main criticisms of the Appeals Chamber decision in Bemba in June 2018 on the eminent blog EJIL:Talk under the title "[Fiddling While Rome Burns? The Appeals Chamber's Curious Decision in Prosecutor v. Jean-Pierre Bemba Gombo](#)". The critique was mainly focused on the prolonged judicial process, the Prosecutor's alleged deficiencies, the considerable allocation of fiscal and human resources on the said case and the overturn of the unanimous Trial Chamber's decision by a divided Appeals Chamber (3-2), which eventually led to the exoneration of the accused. However, one should not overlook that at the same time the Court proved undeniably that the conferment of justice and not the mere conviction of an accused is its principal and legitimate aim.

Indeed, the first 18 years of the Court's function have not been easy. They have been marked by serious challenges and major achievements. Overall, competing interests, limited resources, political opportunism, cultural differences, different visions are some of the ICC's challenges that need to be faced. However, these almost two decades of experience can potentially aid considerably the Court and pave the way for a greater future.

3. What do you believe are some of the major challenges confronting the ICC and Rome Statute system currently and in the coming years?

Some of the challenges that the ICC currently faces are related to: **a)** the length of proceedings (the main issue of concern for the German Parliament); **b)** the arguably limited number of cases brought before the Court since 2002; **c)** the alleged high cost of its operation in comparison to its overall performance and effectiveness (The Elders, group of former world leaders); and also **4)** the Prosecutor's focus on certain regions of the world (Africa).

Thankfully, the Court has repeatedly provided convincing answers, while the recent appearances of ICC President Chile Eboe-Osuji on BBC HARDtalk in 23 June 2020 and on The Conflict Zone on Deutsche Welle in 2019 constitute exemplary responses to much of this critique.

Moreover, noteworthy is the tension developed due to the United States unacceptable reaction to the ICC's investigation into possible war crimes by the United States and its allies in Afghanistan. The imposition of sanctions<sup>2</sup> on important ICC officials, including the current ICC Prosecutor Fatou Bensouda, and the head of the Office of the Prosecutor's Jurisdiction, Complementarity, and Cooperation Division, Phakiso Mochochoko are the publicly known hostile measures of a largely unknown war against the Court. The unprecedented measures against the ICC reflect the intense pressures and "*the attempts to interfere with the Court's judicial*

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<sup>2</sup> Executive Order on Blocking Property of Certain Persons Associated with the International Criminal Court, 11 June 2020.

*and prosecutorial independence and crucial work to address grave crimes of concern to the international community”.*<sup>3</sup>

*However, as it is well said: “Now that the international criminal justice project genie is out of the bottle, it cannot easily be put back in. For the foreseeable future, the ICC will sometimes struggle and sometimes even fail. But it will not go away and it will not become irrelevant. In the end, it will persist and succeed because of what it stands for” (Alex Whiting 2015).*

## **LEGAL SYSTEM**

4. The Rome Statute seeks judges representing all of the world’s major legal systems.

a) Which legal system is your country part of?

Greece is a civil law country. Therefore, for the purposes of Article 36, paragraph 8(a)(i) to (iii) of the Rome Statute, I represent the **civil law** system and the **Western Europe** and Other Regional Group, although I have also substantive knowledge of the **common law system** and **international legal frameworks** (ICC, ICTY).

b) Please describe any knowledge or experience you have working in or with other legal systems.

I am well cognizant of the **common law system** because of my three-year undergraduate and postgraduate legal studies in the United Kingdom (University of Nottingham and Birmingham City University), which also included criminal and civil practical courses (clinic courses). Moreover, I am well aware of **international criminal law frameworks** (ICC, ICTY), because of my current pro bono position at the ICC as alternate member of the ICC Disciplinary Board and my six-month internship as junior legal counsel at the ICTY Office of the Prosecutor (Milosevic case). The aforementioned practical experiences are ideally coupled with my theoretical knowledge of international criminal law which was obtained during my

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<sup>3</sup> <https://www.aljazeera.com/news/2020/9/3/international-criminal-court-condemns-us-sanctions-on-officials>

LLM degree at the University of Nottingham and my PhD on the prerequisites of the jurisdiction of the International Criminal Court.

### **LANGUAGE ABILITIES**

5. The Rome Statute requires every candidate to have excellent knowledge of and be fluent in English or French.

a) What is your native language?

My native language is Greek.

b) What is your knowledge and fluency in English? If it is not your native language, please give an example of your experience working in English.

I am fluent in English (almost mother-tongue level) and able to speak fluently in public hearings and meetings. I started learning English when I was four and a half years old and have studied in the United Kingdom both as an undergraduate and postgraduate student. As an academic I have participated in more than 10 conferences which required my paper to be presented in English. Academic writing in English has been part of my professional life for many years now, culminating to the publication of my recent book entitled: *The Jurisdiction of the International Criminal Court (Springer, 2019)*. This book constitutes the product of over 10 years of research on the International Criminal Court. Finally, yet importantly I can and have already as a member of the ICC Disciplinary Board written my own decisions in English.

c) What is your knowledge and fluency in French? If it is not your native language, please give an example of your experience working in French?

I have studied French for six years during high-school and one additional year during my bachelor degree. Although I cannot speak fluently, I can read and write French and have prepared unofficial French translations of draft decisions for other

members of the Disciplinary Board of the International Criminal Court when this was required in order to expedite proceedings. Improving my knowledge of French will be amongst my top priorities after my election.

### **LIST A OR B CRITERIA**

6. Your response to this question will depend on whether you were nominated as a List A candidate or a List B candidate.

a) For **List A** candidates:

- How would you describe your competence in relevant areas of international law outside of the field of international criminal law, such as international humanitarian law and international human rights law?

**International humanitarian law** constituted an integral part of my LLM degree at the University of Nottingham and also a primary area of my research interests.

In this context, I drafted a research proposal that could be materialised with the assistance of civil society organisations and/or academic institutions. **The topic of my research proposal is “Attacks on Urban Centres: the Civilans' Protection According to International Humanitarian Law and Recommendations”**. Please find below the abstract of my research proposal on this aspect of international humanitarian law:

From antiquity to the Middle Ages and then up to the 21st-century cities play a crucial role in people’s lives as centres of political, economic and social interaction. Inevitably, however, the destructive turmoil of war did never leave them untouched; on the contrary cities were always gravely injured by the inhuman forces of war, which often fails intentionally to respect: 1) minors, women and other sensitive groups of people, 2) monuments belonging to our world heritage and 3) rules of international humanitarian law (e.g. targeting only objects which make an ‘effective contribution’ to military action and offer a ‘definite military advantage’, taking all

necessary precautions and into proper account the principle of proportionality before launching an attack).

Nowadays, due to the more and more increasingly deadly power of modern weapons and immoral war tactics, the urban warfare has caused unimaginable horror and tragedy with millions of direct or indirect victims. Understandably, this trend has a catastrophic impact on the civilian population and poses serious legal and operational challenges that need to be thoughtfully addressed to ensure that citizens, sensitive human groups, vital civilian infrastructure and monuments of our human heritage are duly protected.

Hence, the research initially will focus on: 1) the conduct of sieges 2) the tactics of urban warfare 3) the resort to air strikes on urban areas (city of Yarmouk) 4) military operations against highly populated urban areas (Operations Cast Lead and Protective Edge) 5) shelling and sniping incidents (Sarajevo's siege) 6) naval blockade and the disruption of the food, water and medical supply chains (Yemen, Gaza) 7) the use of explosives in civilian areas. 8) the threats to cities' cultural heritage.

Eventually, the aims of the research will be to: **1)** clarify existing legal ambiguities **2)** explore ways via which the respect for IHL could be reinforced **3)** provide recommendations for the enhancement of people's protection.

Secondly, as far as **international human rights** are concerned, I have inevitably a great personal interest about them because they rest well within the core of international criminal justice and ICC's critical mission. My above interest is depicted via my active involvement as a counsel in high-profile criminal and civil law cases ranging from the potential murder of a police officer by fellow officers (Kalyva application before the European Court of Human Rights) to tens of applications regarding people's petition to have their financial debts written-off for reasons related to human dignity.

Moreover, I have written various papers and articles including: **1)** the ordeal of Greek citizens of Muslim religion, who were arrested, detained and finally acquitted but without ever getting their confiscated vehicle back [[“Les Misérables of Thessaloniki in 2011: A Practical Case Study of Human Rights and Human Abuse”](#) in M. Zirk-Sadowski, B. Wojciechowski and K. M. Cern (eds.), **Towards Recognition of Minority Groups**, (London: Ashgate, 2014). **2)** the rights that indigenous people accused of felonies should have pursuant to the international human rights instruments *“The Compulsorily Assigned Counsel and the Right to Adjourn or Postpone the Trial”*, (2008) (8) *Poinika Chronika*, pp. 758-763. **3)** *“The Move to Restrict the Death Penalty in International Human Rights Law and Resistance in the American Continent”*, (University of Nottingham Human Rights Law Review, Students’ Supplement), 2002-2003, pp. 45-55.

b) For **List B** candidates:

- How would you describe your competence in criminal law and procedure?
  
- How would you describe your experience in criminal proceedings?

#### **OTHER EXPERTISE AND EXPERIENCE**

The ICC is a unique institution, as such ICC judges face a number of unique challenges (including managing a regime of victims’ participation and witness protection in complex situations, including of ongoing conflict). Even judges with significant prior experience managing complex criminal trials may not necessarily possess requisite skills and knowledge needed to manage these challenges.

7. Is there any area of expertise, knowledge or skillset which you would like to enhance through workplace trainings?

I would like to improve my French language skills because in that way I will be able to have the clearest possible perception of victims’ situation and needs.

8. Please provide examples of your legal expertise in other relevant areas such as the crimes over which the ICC has jurisdiction, the management of complex criminal and mass crimes cases, or the disclosure of evidence.

As already noted above I have completed a [PhD on the prerequisites of the jurisdiction of the International Criminal Court](#) and have subsequently published two books on the jurisdiction of the International Criminal Court one in Greek and one in English [see: [\*The Jurisdiction of the International Criminal Court\* \(Springer, 2019\) ISBN 978-3-030-21525-5](#)].

9. Please describe the aspects of your career, experience or expertise outside your professional competence that you consider especially relevant to the work of an ICC judge.

I consider significant that I can ideally combine my professional legal experience (legal counsel, ICC Disciplinary Board Member) with my academic knowledge and protracted research on international criminal law and the Rome Statute in particular.

### **EXPERIENCE AND PERSPECTIVE RELATED TO SEXUAL AND GENDER BASED CRIMES (SGBCs)**

10. Please describe any experience you may have in dealing with SGBCs, including in addressing misconceptions relating to SGBCs.

Sexual and Gender-Based Crimes had not always been in the spotlight of the international criminal community. Hence, I personally considered it a major step when the ICC fortunately took a leading role in combating SGBCs during armed conflicts and wars and explicitly, for the first time, recognized sgbc as a form of crimes against humanity and war crimes (Robert Cryer, *An Introduction to the International Criminal Law and Procedure*, Cambridge University Press, 4<sup>th</sup> edition, 2019, pp. 248-252, 280-281). The Court, and especially the OTP with the 2014 Policy Paper on Sexual and Gender-Based Crimes, eventually draw the much-anticipated

attention on sexual assault charges, similar to ones that previously had been dropped by the Court (Lubanga and Katanga cases).

On top of this misconception regarding the severity and harshness of SGBCs, my experience, also, taught me that gender-based crimes should not improperly conceived merely as women-based violence but as a rather symmetric term. Modern societies are changing dramatically, believes are reshaped and men can equally sometimes find themselves in the firing line. Given, also, the lack of attention paid on male victimization I do believe that the International criminal community should combat both male and female victimization and maltreatment due to their socially constructed roles.

Being always an absolute proponent of the highest quality of support and subtle handling of SGBCs victims, throughout my professional career I tried to maintain a consistent, respectful and of due caution approach to relevant cases. During my 16-year experience as a legal counsel, I tried cases involving serious sexual offences and abuse of minors and have gained expertise in the handling of vulnerable witnesses, particularly those who are children or juveniles, especially within the special domestic violence Greek legal framework; moreover I have interviewed victims and witnesses in two rape cases.

Additionally, in 2019 in a genuine willingness and effort to cultivate my personal skills concerning SGBCs victims, I successfully attended and participated in the five-day workshop for Counsels included in the ICC List of Counsel “Combating Sexual Harassment at Workplace and Legal Ethics” (The Hague, 3-7 June 2019), which took place at the premises of the International Criminal Court. Finally, my expertise and competence is also verified by the fact that in 2019 I was elected as a joint Vice President for Victims of the International Criminal Court Bar Association. During my term I participated *inter alia* in the Cluster 2 discussions of the Independent Expert Review on the ICC and suggested along with my learned ICCBA colleagues reform proposals relating to the function of the Victims Protection Unit, the Office for Public Counsel for Victims, the victim’s representation, the *amici curiae* submissions, the

application of Art. 71 ICCRSt, and issues linked to pre-trial detention and provisional release.

## **EXPERIENCE AND PERSPECTIVE RELATED TO CRIMES AGAINST CHILDREN**

11. Please describe any experience you may have in addressing crimes against and affecting children and related issues, including dealing with child witnesses.

Since my very first professional steps, I realized that children belong to the riskiest category of victims and witnesses since they are extremely vulnerable to secondary victimization. It should be taken for granted that the attention of legal counsels and judges should always be doubled or tripled when the criminal proceedings include minors. Any form of mistrust, disbelief and abruptness can turn out to be highly traumatizing even more than the initial incident, and this is something that guided my whole professional career thus far by keeping this as an inviolable rule. Children should, more than anyone else, not be left exposed to any judicial sharpness, while we, as counsels, since the very initial interviews, must create bonds of trust, familiarity and intimacy that will protect children throughout the often long-lasting judicial procedure.

As I already stated, within the Greek Family Law framework and especially the special criminal law 3500/2006 governing the domestic violence incidents, I have frequently come across crimes which seriously affect children (because they have happened by those who should love them more than anyone else) and which place unavoidably children in the scene of a crime either as victim or witness. The examination of the child(ren) takes place initially at the law firm offices at an hour that no other persons than the legal counsel(s) involved in the case will be present for reasons of confidentiality and in order the child to feel as comfortable as possible. It has been always my ultimate goal to secure the safest environment for them and avoid any formality that would only increase the distance and would cause hesitation and fear. The child(ren) are always accompanied by one of his/her parents (in 99% of the cases his/her mother), again in an effort to increase the smoothness of the procedure, while the assistance of a child psychologist is, also, sought when the

seriousness of the crime, which was witnessed by the child(ren) or caused harm to the child(ren), requires so.

## **EXPERIENCE AND PERSPECTIVE RELATED TO VICTIMS**

12. Please describe any experience that you may have relevant to the right of victim participation before the ICC and reparations for victims of mass atrocities.

As a Lead Counsel of the Intellectum NGO, I have submitted an *amicus curiae* brief regarding the admissibility of a case before the ICC. Clearly if the case is ruled to be admissible, this would be a critical threshold for the subsequent victims' participation before the ICC and the victims' reparations.

13. Do you have any specialised training and/or experience in providing protection and support to victims and witnesses participating in a case?

As a criminal lawyer practicing law with a civil law framework for the last sixteen years, I have an extensive 16-year experience in providing protection and support to victims and witnesses **before, during and after a criminal trial**.

This is the case because as it is well known a criminal lawyer within a civil law framework represents not only the accused but also victims; and despite commonly held views that a 'real' criminal lawyer would represent only the accused, I have never rejected taking on a case because I would represent the victim(s). In fact in my niche law firm we are very considerate and sensitive towards representing victims at a criminal trial because we firmly believe that the role of victims' counsel is crucial within the prosecutorial system of the civil law framework, where the Prosecutor is not legally obliged to seek the conviction of the accused and can even request the acquittal of the accused for factual and/or legal reasons.

Given this legal framework of the Greek jurisdiction and my practical experience in representing victims before the national courts, the need for the protection and support of victims and witnesses participating actively in the criminal proceedings

became a priority. By now, I do acknowledge the great importance of the human element that the presence of victims and witnesses add to the bureaucratic trail of the trial. One cannot overlook the vast amount of criminal cases which the final court outcome is critically founded upon the victims and witnesses' testimonies, in light of the absence of any other tangible evidence. Therefore, from my perspective victims and witnesses constitute an "irreplaceable critical factor" for the conferment of justice. Hence, it is indispensable to guarantee that their voices are respectfully heard, their needs are appropriately met, and their stories are not trivialized either directly or indirectly by the judicial mechanisms. Consequently, an environment free of fear, apprehension, and hesitation to testify must be secured since the very initial stages of the criminal procedure.

Moreover, it is of paramount importance that victims are represented by excellent legal representatives who are specialized and capable of building bonds of trust and rapport with them. Given the sensitivity and the highly traumatizing nature of their past experiences, in this way all the necessary information can be elicited subtly via the avoidance of any secondary victimization due to improper handling of the case. In practice, I have known that victims and witnesses should always feel that themselves and their families are safe, that no personal details will ever be disclosed without their consent and that they are efficiently represented during all criminal proceedings.

Finally yet importantly, along with the establishment of a safe and protected judicial environment, it is crucial that victims and witnesses will not be simply abandoned after the completion of the legal proceedings, but they will rather continue receiving support.

#### **EXPERIENCE RELATED TO FAIR TRIAL CONSIDERATIONS AND THE RIGHTS OF THE ACCUSED**

14. Please describe any relevant experience implementing/advocating for the rights of the accused, including any specific experience managing fair trial considerations in criminal proceedings.

Although undoubtedly victims hold a major role in the criminal proceedings and their needs must be appropriately met, one should never forget the core criminal principle in *dubio pro reo*. Therefore, it is essential to ensure that the accused rights are equally respected, and he/she is not deprived of any of the democratic requirements of a fair trial.

This consideration necessarily requires a very solid personality, who can see beyond the moral facets of a case. In the past I have done one-month trial monitoring on red-handed crime and an additional one-month trial monitoring on misdemeanour and felony cases of accused people who were below the poverty line. Pursuant to the existing Greek legislation these people had the right to be represented by a counsel assigned to them by the State free of charge but: **1)** the law practically applied only to felonies and not to 48 misdemeanours **2)** the compulsorily assigned counsel would usually get in his/her hand the file of the case during the same court session and would 'prepare' to represent the client accused of felony charges within 30 minutes - a couple of hours maximum.

Undoubtedly, this meant that poor people did not have a fair trial and that practically justice could not be properly conferred. My groundbreaking paper on the rights that low-income people accused of felonies should have pursuant to the international human rights instruments was published under the title "*The Compulsorily Assigned Counsel and the Right to Adjourn or Postpone the Trial*", (2008) (8) *Poinika Chronika*, pp. 758-763 in the most prominent Greek criminal law journal; and its publication led, along with concerned actions at the Courts of Thessaloniki by counsels who began requesting a minimum 48-hour adjournment or a longer postponement of the trial to the amendment of the legal practices in order the legal counsels to be informed fully of the case file well before the trial. This entire effort persuaded me even more about the importance to always fight for a fair trial and to subtly balance the rights of the victim and the accused.

## HUMAN RIGHTS AND HUMANITARIAN LAW EXPERIENCE

15. Do you have any experience working with or within international human rights bodies or courts and/or have you served on the staff or board of directors of human rights or international humanitarian law organizations? If so, please briefly describe this experience.

As stated above since 2018 I am alternate member of the ICC Disciplinary Board and have tried an increasing number of cases thus far. Moreover for the last fourteen years I have been Executive Director and Board member of the NGO Intellectum. Finally, before that I interned for six months as junior legal counsel at the ICTY Office of the Prosecutor (Milosevic case).

16. Have you ever referred to or applied any specific provisions of international human rights or international humanitarian law treaties within any judicial decision that you have issued within the scope of your judicial activity or legal experience?

Yes, indeed in numerous occasions. To name but only one purely indicative example on the **Kalyva v Greece** application at the European Court of Human Rights (alleged murder of a police officer by fellow police officers) at Section III of the application under the title "Statement of alleged violation(s) of the Convention and/or Protocols and of relevant arguments" I explicitly referred and requested the application of:

**1) Article 2 (right to life):** In the case of CASE OF RANTSEV v. CYPRUS AND RUSSIA (2010), the applicant successfully complained under Articles 2, 3, 4, 5 and 8 of the Convention about the lack of sufficient investigation into the circumstances of the death of his daughter in Cyprus. This is the most closely related and recent case to our application that we managed to find and we deem that our application has even greater merit.

**2) Article 3 (inhuman or degrading treatment):** the fact that they were not allowed to see our son for the last time, after he died, notwithstanding our constant efforts was an inhuman treatment we received illegally, unjustifiably by the Greek police.

**3) Article 5 (liberty and security of person)**

4) Article 6 para. 1 (entitlement to a fair and public hearing): Despite my constant legal petitions and submissions the file remains closed and the case was never heard before a Court.

5) Article 8 (respect for private and family life)

6) Article 13 (effective remedy before a national authority for human right violations)

## **IMPLEMENTATION OF THE ROME STATUTE AND INTERNATIONAL CRIMINAL LAW**

17. During the course of your judicial activity, if any, have you ever applied the provisions of the Rome Statute directly or through the equivalent national legislation that incorporates Rome Statute offences and procedure? Have you ever referred to or applied jurisprudence of the ICC, *ad hoc*, or special tribunals? If yes, please describe the context in which you did.

Yes, as an alternate member of the ICC Disciplinary Board, I have applied frequently provisions of the Rome Statute, referred to and applied jurisprudence of the ICC, including in the decisions of Disciplinary Complaint against Mr Goran Sluiter, Decision of the Disciplinary Board in the Case of Mr Goran Sluiter and Decision of the Disciplinary Board in the Case of Mr Jean Logo Dhengachu.<sup>4</sup>

## **EXPERIENCE AND PERSPECTIVE RELATED TO GENDER MAINSTREAMING**

18. Could you share examples of when you applied a gender perspective in the course of your professional career?

In my law firm Newlaw, we are sensitive in applying gender perspectives whenever it is prudent, meaningful and necessary, especially regarding the core principles of **equal treatment, equal access** to and utilisation of services, **respect of diversity and the use of gender-sensitive language**. Hence, over the years we have applied

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<sup>4</sup> <https://www.icc-cpi.int/get-involved/Pages/Disciplinary-board.aspx>

increasingly gender perspectives in the law firm's everyday function and operation. The areas where we have applied gender perspective policies include but they are not limited to:

- 1) the equal hiring process of trainee lawyers, where traditionally many Greek law firms and offices had a clear and even advertised preference for young female lawyers over male;
- 2) prison visits of male inmates in state prisons would always be made by a female counsel only when it was absolutely required; and in such an occasion, the female counsel would always be accompanied by a male counsel or trainee lawyer
- 3) meetings with clients for criminal law cases would not take place by female counsel alone;
- 4) **adoption of an open-door policy and** architecture design so that – *inter alia*- female colleagues feel safe and know that no one can speak to them or act inappropriately unnoticed and
- 5) any legal briefs or extrajudicial documents handed over to the Courts' administration, colleagues and bailiffs will always take note as a matter of policy the gender of the person and hence address the person specifically according to his/her/hir gender and not generically via the traditional use of male grammatical forms.

#### **CRITERIA OF HIGH MORAL CHARACTER, INDEPENDENCE, IMPARTIALITY AND INTEGRITY**

19. What, in your opinion, does the Rome Statute requirement of “high moral character” mean and how do you embody these characteristics? What in your opinion would be contrary to “high moral character”?

Pursuant to **Art. 36(3)(a) ICCRSt** judges should be selected ‘among persons of high moral character, impartiality and integrity’. The requirement is derived from Article 2 of the Statute of the International Court of Justice, where the standard is that of ‘independent judges’ who are ‘persons of high moral character’. It is validly believed that following also the ICTY and ICTR legacy, the said provision has now a customary

status. Schabas also notes that with the European Convention on Human Rights legal framework, the Guidelines of the Committee of Ministers have stated as this phrase connoting a 'behaviour and personal status [which] must be compatible with holding judicial office'.<sup>5</sup>

Undeniably, the manifestation of high moral character, the impartiality, integrity and independency of the judiciary are critical issues for the conferment of justice, which has even led to the publication of many books examining these issues, including Robert Stevens' monograph "The Independence of the Judiciary: View from the Lord Chancellor's Office" (Clarendon Press, 1993). In Britannica encyclopedia it is duly noted that judicial independence is "the ability of courts and judges to perform their duties free of influence or control by other actors, whether governmental or private. The term is also used in a normative sense to refer to the kind of independence that courts and judges ought to possess.

This ambiguity in the meaning of the term judicial independence has compounded already existing controversies and confusions regarding its proper definition, leading some scholars to question whether the concept serves any useful analytical purpose. There are in general two sources of disagreement. The first is conceptual, in the form of a lack of clarity regarding the kinds of independence that courts and judges are capable of possessing. The second is normative, in the form of disagreement over what kind of judicial independence is desirable."

I personally define a judge of high moral character as one who examines impartially the evidence of the case file and weighs with absolute fairness the 'for and against' evidence/arguments of the parties before issuing with clear conscience his/her decision, without succumbing at any stage to any pressure, and while always complying with the rules of deontology. And in order to be able to constantly confer justice of the highest standards a judge must possess virtues such as integrity, courage, fortitude, honesty and loyalty.

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<sup>5</sup> William A. Schabas, *The International Criminal Court: A Commentary on The Rome Statute* (OUP 2016), p. 511

I would also like to refer to **the Basic Principles on the Independence** of the Judiciary, which were adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and were endorsed by the UN General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985 as they offer a sound basis for defining and understanding what an independent judge truly is and how an independent judge should conduct himself/herself in his/her ordinary life.

Finally, I consider integral part of the requirement of “high moral character” the acknowledgment by a judge that his/her impartiality should never “be doubted on any ground”. To name but a few indicative examples, this can occur when a close relative or even a former partner is accused of a crime or participates as a counsel in the proceedings. Furthermore, lack of impartiality could occur when a former counsel of the same accused for a previous crime became later a judge at a case involving his/her former client; or when the judge had testified as a witness or victim in the course of a preliminary investigation regarding the same case or a different case but with the same accused person(s). Additionally, pursuant to the famous maxim “Caesar's wife must be above suspicion” this could also occur under certain circumstances if the individuals involved were personally known to the judge or contacted the judge prior to the hearing.

Hence, in the interests of justice, a judge should responsibly recuse himself/herself from a case if there exists any kind of conflict of interest.

**20.** Have you ever resigned from a position as a member of the bar of any country or been disciplined or censured by any bar association of which you may have been a member? If yes, please describe the circumstances.

No, never.

21. It is expected that a judge shall not, by words or conduct, manifest or appear to condone bias or prejudice, including, but not limited to, bias or prejudice based upon age, race, creed, color, gender, sexual orientation, religion, national origin, disability, marital status, socioeconomic status, alienage or citizenship status.

a) What is your opinion on this expectation?

I believe that in principle a judge should be free from bias and prejudice and never express verbally or via actual conduct any bias or prejudice regarding age, race, creed, color, gender, sexual orientation, religion, national origin, disability, marital status, socioeconomic status, alienage or citizenship status of persons. I also believe that I possess this character quality as The Power of Minus two-year public campaign vividly demonstrate. Of course a judge must refer to such elements when they are clearly connected to the particular characteristics of a case, the status of victim(s) or offender(s) and the specific elements of a crime; but again this referral should be made carefully in order not to be easily misconstrued. My belief is not only based on ethical or human rights grounds (Article 2 of the Universal Declaration of Human Rights, Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination, Article 14 of the European Convention on Human Rights) but also on the Rome Statute, which itself expressly stipulates in Article 21§3 ICCRSt that no such criteria should ever exist regarding the application and interpretation of law.

b) Have you ever been found by a governmental, legal or professional body to have discriminated against or harassed an individual on these grounds? If yes, please describe the circumstances.

No, never.

22. Are you aware of any formal allegations made about you related to professional misconduct, including allegations of sexual harassment, discrimination, or bullying,

or any investigations regarding your alleged professional misconduct related to the same? If so, please explain.

No, never.

23. Do you have any reason to believe that any current or former colleagues or professional contacts, if asked, would share concerns regarding your professional conduct?

No, certainly not.

24. Article 40 of the Rome Statute and the ICC 'Code of Judicial Ethics' requires judges to be independent in the performance of their functions.

a) What difficulties, if any, can you envisage in taking a position independent of, and possibly contrary to, the position of your government?

I have never held a public office or position in my country and hence have no strings attached.

b) How would you act in cases where significant (direct or indirect) political pressure was exerted upon you and/or you and your colleagues?

During the last sixteen years as a principal lawyer I have handled high-profile criminal and civil law cases ranging from the potential murder of a police officer by fellow officers (*Kalyva* application before the European Court of Human Rights) to the total erasure of families' financial debts for reasons related to human dignity. As a result, I was often explicitly and/or implicitly under constant pressure from parties and various actors for a considerable period of time.

In addition to the above experience, I also worked continuously under great pressure during the public campaign initiated by the NGO Intellectum, known as: «**The Power**

**of Minus».** Despite the various challenges we faced, including attempts of penal actions, «The Power of Minus» had a remarkable impact. During the time of pressure that was exerted upon myself and my team we all stayed calm, firm and in control of the situation. Our mission was our guide and we stayed dedicated to the values of serving the public good and implementing a public campaign to promote human rights. We continued and completed «The Power of Minus» two-year public campaign project with unparalleled success.

Clearly, my experience and personality have always proven that direct or indirect political pressure cannot change my values, mission and direction. I am a mission driven human with strong-will and a beyond doubt focus on the protection of human rights.

**25.** Please describe specific measures you have undertaken to advance a work environment free of bullying, harassment, and other harmful behavior.

Unequivocally, the training I received within the ICC premises in 2019 during the five-day workshop for Counsels included in the ICC List of Counsel under the title “Combating Sexual Harassment at Workplace and Legal Ethics” (The Hague, 3-7 June 2019), has provided me with the rare opportunity to interact with tens of learned colleagues and gain novel insights in this critical issue, which can often take very subtle yet unpleasant forms.

In my law firm NEWLAW we have taken and constantly update our policies in order to ensure a work environment free of bullying, harassment, and other harmful behaviour. The core of our internal policy rests within the embracement **of an open-door policy**, which is greatly supported by the architecture design of our law firm offices. All the spaces within our law firm offices are open and there are actually no doors apart from the kitchen and toilet rooms. This practically means that it is impossible one to speak or act inappropriately and remain unnoticed.

## **OTHER MATTERS**

**26.** The Rome Statute requires that judges elected to the ICC be available from the commencement of their terms, to serve a non-renewable nine-year term, and possibly to remain in office to complete any trials or appeals. A judge is expected to handle legal matters for at least seven hours per day, five days per week.

a) Do you expect to be able to serve at the commencement and for the duration of your term, if elected?

Yes, I am fully prepared and available to do so, both physically and mentally.

b) To what extent are the judicial tasks described above compliant with your expectations of work standards? Please describe any potential adaptations you may require.

The judicial tasks described above are fully compliant with my work standards' expectations.

**27.** Please feel free to address any other points here.

I would like to thank you for the opportunity to answer this questionnaire. As a longstanding member of the civil society community (Intellectum, [Eurozine](#)), I embrace the crucial role of civil society in the fields of international human rights and international criminal justice.