

Questionnaire to Candidates for the Position of Registrar of the International Criminal Court

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Conscious of the critical importance of the role of the Registrar of the ICC, we have prepared the following as a questionnaire for candidates for this position.

Please reply to some or all the following questions as comprehensively or concisely as you wish.

Name: Lilian Apostol

Nationality: the Republic of Moldova and Romania

Vision for the ICC and the Registry:

1. Why do you wish to be elected as the Registrar of the International Criminal Court (ICC)?

I have worked in the field of criminal law and human rights law during my entire career. Amongst the highlights of my career was my work as the Agent for the Government of the Republic of Moldova before the European Court of Human Rights (ECHR). In this position I have dealt with a wide range of human rights issues, including the right to life, prohibition of torture and ill-treatment by State agents, inefficient criminal investigations, unlawful detentions, poor conditions of detention, domestic violence, LGBT rights, right to education etc. I have also worked on very important cases before the ECHR employing jurisdictional questions in the so-called “frozen” post-conflict situations. These cases dealt with transitional human rights justice, respect of human rights and investigation of crimes committed in territories with no effective control (e.g. the cases of [Catan and others](#), [Mozer](#), [Pisari, Turturica and Casian](#), etc. mentioned in the description of experience). I would also note my work as a prosecutor in Moldova and my thorough understanding of the substantive criminal law and criminal procedure law. My master thesis research concerned the “criminal action” as triggering criminal responsibility. After my career in the State institutions, I continued as an independent expert in my area of expertise and, as a result, gained a vast knowledge of different legal systems. For example, my last research made some assumptions on development of inter-state and quasi-interstate human rights actions, in Crimea and Eastern Ukraine. Currently I continue my academic activity both in field of human rights and international law as part-time expert, holding professional training of judges, prosecutors and other legal professionals. Last but not least, I consider necessary to constantly improve and upgrade my skills and knowledge. Thus, I am currently in the process of acquiring my degree of advanced studies from the Geneva Academy of the International Humanitarian Law and Human Rights.

Thus, I am motivated by both personal and objective reasons: career and paying my contribution to something “big”, i.e. fighting impunity for most hideous human conducts by

serving international criminal justice. I believe that I can make an important contribution to the work of the ICC, which will be professionally and personally rewarding for me.

2. Article 43 of the Rome Statute states that the Registrar shall be a person of “*high moral character, be highly competent and have an excellent knowledge of and be fluent in at least one of the working languages of the Court*” (French and English). Please describe briefly how you meet these criteria.

My life motto is truth. It includes all concepts of justice, fairness, law obedience, moral conduct, etc. They change over time, can be understood or perceived differently in different contexts, societies or cultures, but the truth is universal. Therefore, my moral character is being guided by my constant desire of finding the truth in which I invest all my knowledge, acquired following my vast legal and life experience. This experience includes national prosecutorial and judicial practice, diplomacy and international human rights law litigation. Undeniably, after being part of international legal environment for almost half of my 15 years’ professional career I have acquired good command and fluency in both of the Court’s working languages, English is my primary in which I am already thinking and French is advanced. Besides, I am native in Romanian and fluent in Russian.

3. What do you believe are the most important achievements of the ICC in its first 15 years?

I think that the cases and judgments will always be the greatest achievements of any court, by which it expresses its authority. Indeed, its purpose is to serve justice and in case of the ICC the justice has been served. 15 years for the ICC is still a short period of time but it was enough to implement the idea of international criminal justice and responsibility for what, after the Nurnberg trials, was called the “wrongs” that can neither be ignored nor survive their being repeated. In this sense, the ICC’s activity is the result of acquiring and extending its authority to the judgments of the law, as “one of the most significant tributes that Power has ever paid to Reason”. Nowadays, the international community would rather see itself with the ICC than without it. And, I think this is the most important achievement.

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

In my opinion, this would be a struggle between the State parties to preserve their sovereignty on account of undermining the ICC’s authority. Both the ICC and Rome Statute would be subjected to a continued criticism from the State-parties and non-parties accompanied by attempts to change the system. These attempts would follow other challenges that the ICC is facing, i.e. the growing case-workload, its decreasing popularity among some regions and procedural boundaries of the ICC jurisdiction.

5. What do you believe are some of the current challenges the Registry specifically faces and how would you address them? What are some of the qualitative indicators you might consider when assessing the performance of the Registry and what would you suggest to enhance efficiencies?

I can only reasonably assume that there are some pending challenges, since I am applying to this position as an outsider. This could be the length of proceedings, concurrence between

privileged information and transparency, lack of human and legal resources and caseload. However, I would need to familiarize myself with the internal climate to see where and what kind of measures are needed to increase the quality of the Registry's work. I am a professional and a pragmatist, that is why now I would rather refrain myself from making speculations on how the Registry should work. The central idea is that the Registry, being a practical judicial tool, should be both proficient and operative.

6. All Court officials must perform their functions with full independence and should not act under the instruction of any State or external actor. Do you expect to have any difficulties in taking a position independent of, and possibly contrary to, the position of your government or any external actor?

I expect pressure but I do not see difficulties in dealing with and preventing it. The scope of me applying is to conserve my already independent position. Therefore, not only that I see myself acting independently but I refuse any idea of me being subjected to such outside or inside pressure.

7. 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 with the ICC President; the Office of the Prosecutor; the ICC Chambers, and the Assembly of States Parties?

Rome Statute, Rules of Procedure and Evidences and all relevant legal regulations govern these relationships in detail, which I will follow. In this sense, the principle of Registry's neutrality does not mean non-involvement but rather law abiding conduct. Hence, there is not much to add in this sense, except that I have to set my emotions outside my professional reason, the principle by which I will behave while exercising the position, if elected.

8. Please describe any specific expertise of relevance to the work of the ICC that you may have, including, but not limited to, gender equality and violence against women or children. How would you ensure that women and children have access to justice and are cognizant of what the Rome Statute is seeking to achieve?

I have thorough knowledge and extensive expertise in human rights justice, which is actually of great relevance to the above question. In my professional work I have participated at the development of the Governmental anti-discrimination policies followed by elaboration of the domestic anti-discrimination legislation. As mentioned above, I have also worked on cases before the ECHR related to gender equality and violence against women, including domestic violence.

One should first identify the obstacles for women and children having access to justice in a specific country or region, including legal barriers, and then identify the measures for change. The women's and children's access to justice needs first of all an increased awareness raising, development of a legal education curricula in schools, qualified free legal assistance and support on the part of the national human rights institutions and non-governmental organisations. The ICC on its turn can develop programmes that would facilitate participation of women and children as witnesses and victims in the proceedings before the Court. Special procedures might be necessary to ensure their psychological well-being and exclusion of re-victimisation during proceedings.

Experience in Management and Budgetary Processes:

9. How would you describe your management skills and experience that would be of relevance to the effective management of the ICC's human resources, including hiring and retaining highly-qualified staff and ensuring their satisfactory performance, as well as addressing the chronic imbalance in geographical representation of its staff and that of women in higher levels?

I am a team leader and not a boss, which means that I am working together with my fellows. This has been always and still it is my approach during all my managerial positions, which included leading the teams of up to 15 persons. My duties as a manager, included *inter alia* establishing objectives for the team members, supervising their work, guiding and training them, assessing their performance and establishing a safe working environment. During my career in the Ministry of Justice of the Republic of Moldova, I was a member of the selection committees for recruiting new staff for the Ministry and candidates for the positions of the national judge to the European Court of Human Rights (ECHR) and lawyers seconded to the ECHR by the Government. This included the elaboration of the legal framework regulating these competitions, preparation of written tests and case-studies, conducting the exams and the interviews with the candidates.

As concerns the chronic imbalance in geographical representation and women at higher ranks, it appears indeed from the latest reports of the Committee on Budget and Finance and of the Bureau on equitable geographical representation and gender balance in the recruitment of staff in the ICC that it is still an issue despite certain efforts made to overcome this problem. During my professional life I dealt with the issues of gender-equality and anti-discrimination of women, including in employment, at the policy level in Moldova.

I think that the measures taken by the ICC thus far, including filling the vacancies as a result of the *ReVision* project and the conversion of a number of GTA posts within the established posts within the Office of the Prosecutor, are important but they need to be redoubled and applied consistently. As an outsider to the ICC, I do not have enough information on the underlying causes for this situation. Additional measures needed to overcome this problem should be established depending on these causes. It is clear that highly-qualified legal professionals, including women, do exist in developing countries and underrepresented regions but they often need better access to information and creating equal opportunities. I believe that the Governments of the underrepresented or non-represented countries should play a pro-active role in contributing to the solution of this problem by wide dissemination of ICC vacancy announcements, creation of rosters of qualified professionals and promote the internships of their nationals at the ICC. The ICC on its turn should also take further measures by ensuring transparency in recruitment process and an easily accessible e-recruitment system, promoting the capacity-building in the underrepresented countries and regions and ensuring that its recruitment procedures do not create disadvantages to the candidates from these countries. I think that an equitable geographical and gender representation would contribute to a better perception of the legitimacy of the ICC and to the development of the human rights law on the international and national levels.

10. 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. What are the size of the budgets and staff you have supervised in past positions? 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?

In my managerial positions, although not directly responsible for budgeting, I was applying the result-based management, which included the result-based budgeting. This referred specifically to the formulation of the objectives for each team member and expected results of the entire team that would justify the resources needed for the work of the team, including financial and human resources, with a subsequent performance evaluation. As mentioned above, I was responsible for a team of 15 persons whose work was supported by a rather modest budget.

As concerns the strategies 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, I believe that a mid-term budget planning with a thorough analysis and reasoning of the ICC's needs is crucial to receiving a positive outcome for budget proposals. An efficient budgeting should start with the development of a strategic vision over the ICC for the mid-term and long-term periods and be based on the current and estimated workload. Negotiating the budget with the State Parties could be facilitated by a clear vision on the costs of the ICC at its best working capacity, a development strategy and a needs assessment for the coming years. At the same time, it is important to ensure that the States should not use the ICC budget to interfere with its work.

Experience in External Affairs:

11. One of the core challenges identified for the Court is obtaining a positive and effective response to its requests for cooperation. Please describe experience you may have that is relevant to address cooperation challenges for the ICC Registry.

An effective response from the States to the Court's requests for cooperation is often crucial for an efficient investigation and prosecution. To ensure an open cooperation, the Registry needs to promote a constant cooperation and dialogue with the States concerned. This can require special representatives of the Registry and the Prosecutor commissioned in the field and identifying partner organisations in the countries in which intensive cooperation is necessary. Cooperation will be successful only when it is based on shared interests and on equal positions. I applied this principle in my human rights international litigation and in relation with national and foreign authorities. Similar tactic could be applied in the ICC cooperation promoting shared interests of criminal justice and fighting impunity.

12. The Registrar has a special mandate vis-à-vis the outreach activities of the Court, especially regarding victims and affected communities. Please elaborate on any experience relevant to fulfilling this mandate, as well as your philosophy regarding the role of the ICC's field presence.

Engaging with the victims and their communities should be an important task of the ICC. The outreach activities can contribute to better understanding by the victims of the Court's work and to ensuring their better participation in and ownership of the entire justice process. These activities should be directed to as large of a public as possible, including direct victims,

affected communities, local media, academic communities etc. It appears that previous experience with *ad hoc* tribunals have demonstrated that without a proper outreach, international justice takes place in a “decontextualized vacuum”. Thus, providing the information about the cases in the countries concerned and ensuring that the judgments are correctly understood by the population and not creating additional tensions, is crucial to ensuring a proper impact of the ICC’s work.

As concerns my personal experience in this area, as a prosecutor I acquired vast experience in working directly with the victims and their representatives. This experience was reinforced in my position of the Agent for the Government when litigating before the ECHR.

13. The ICC has established constructive and long-term relationships with nongovernmental organizations (NGOs). Please describe any previous experience you have working with NGOs.

I view NGOs as a source of inspiration. Their ideas lead to development. My experience in dealing with human rights systemic problems proved that cooperation with NGOs could be only beneficial. The relations should be kept constructive and long-term, meaning no closed doors and careful listening.

14. How would you see your role with regards to increasing the visibility of the Court?

Registrar is the officer of the Court, which means that it is the key for its visibility. How and what he speaks, when and whom he or she addresses, even how he walks into a room mean a lot. Thus, the key of success for increasing visibility of the Court, if you are its Registrar is to improve yourself.

Experience in Judicial Support:

15. 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?

My prosecutorial and human rights litigation experience would serve as a good foundation for this task. There are many ICC procedural rules to ensure full respect of victim’s rights and interests. Above all, the main rule is actually to remember that irrespective of proceedings and rules of procedure, each case is about a human life. It is not a bulk of paper but a personal story. Each case is about someone’s grief, which means that it is personal and real. Once I have realized that it has become easier to ensure the efficiency and expediency of proceedings and respect of victims’ rights; in other words - just treat every case like it is your own.

16. The ICC Registrar is responsible for establishing the eligibility and qualifications of defense counsel, providing support to them, and working with the Court to promote the rights of the defense. Please describe your experience with these issues, including with respect to Defense access to necessary facilities and resources in proceedings (‘equality of arms’), including in addressing issues such as gaps in gender equality on ICC Defense counsel teams?

Here I refer to rules of procedure and evidences that describe in detail situation of disclosure, access to facilities and resources. It is in the interest of justice and overall fairness to fulfil this task. It difficult to speculate on how to assess eligibility and qualifications of defense counsels, without addressing this question on case-by-case basis. Certainly that the quality of defense should prevail over all other criteria, inclusively such sensible issues as gender equality. However, the call-of and selection procedures, as well as the holistic approach, i.e. balancing out the requirements of quality and gender equality, could solve the mentioned gaps. I am certain that feeding the interest of lawyers towards international proceedings, playing by their interest in increasing of their reputation, would invite many qualified men and women to apply for lawyering before the ICC.

17. Article 68(1) of the Rome Statute provides that the Court *“shall take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses.”* Please describe the experience or vision you may have with regards to the protection of victims and witnesses, particularly women, at the ICC?

As it could be observed from my above answers, my approach is to play by the rules which would never fail you. In answering the above question I refer to this approach. I also add that treating each person as it is your own story would be the best solution in fulfilling the task. There never could be a universal answer as to how and what measures to take. Every case is individual and every measure is personal. Just do not forget it.

Miscellaneous:

18. Have you ever been found, after an administrative or judicial hearing, to have discriminated against or harassed an individual on the grounds of actual or perceived age, race, creed, colour, gender, sexual orientation, religion, national origin, disability, marital status, socio-economic status, and/or alienage or citizenship status? If yes, please describe the circumstances.

No. Never.

19. Do you know of any factors that would adversely affect your ability to competently serve as the Registrar, to comply with ethical responsibilities, or to complete the responsibilities that the Registrar is required to assume? If yes, please explain. Are there any other issues or comments you would like to address?

I do not observe such factors, certainly not those of an ethical nature. On the contrary, I am motivated to overcome any of them, if any.

Thank you.