

**Coalition for the International Criminal Court (CICC)  
Questionnaire for ICC Judicial Candidates  
December 2017 Elections**

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

*To fill in the document please click in the grey box, which will then expand as it is filled in.*

Name: Zlata Đurđević
Nationality: Croatian
Nominating State: Croatia
Legal Background ( <i>mark as appropriate</i> ): List A <input type="checkbox"/> B <input checked="" type="checkbox"/>
Gender: Female <input checked="" type="checkbox"/> Male <input type="checkbox"/>

## Background

### 1. Why do you wish to be elected a judge of the International Criminal Court (ICC)?

To be a judge of the ICC, a unique, groundbreaking, and extraordinary international judicial institution, is a great honour and professional challenge for every human rights, criminal law, and international law expert. This position lies at the zenith of an individual's legal career in international settings, and only a few among many legal experts worldwide have the opportunity to put their knowledge and skills at the service of such a prominent institution.

Being a judge of the ICC means having the opportunity to personally contribute to the great historical ideas, aspirations, and efforts of the human race which, through this Court, are being achieved for the first time. Such achievements include uniting the international community to permanently fight impunity for the most egregious individual crimes and the most serious human rights violations. It is an opportunity to personally participate in ensuring justice for disenfranchised, abandoned, and powerless people by punishing guilty perpetrators of the worst crimes, thus sending the message that there is no impunity in spite of political influence, state protection, or social privilege.

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The demanding and complex legal framework of the ICC and the limited political reality in which the Court operates require its judges to continuously develop international criminal law beyond the current state-of-play. It is well known that the judges have played a crucial role in shaping international criminal justice. The creation of precise, consistent, and correct jurisprudence is essential for the future of and for the recognition of the ICC. This can be achieved only through the work of highly competent and independent judges. Therefore, ICC judges should have broad and specialised knowledge of international criminal law, international humanitarian law, and human rights law, in addition to knowledge of criminal substantive law and criminal procedural law. The division of competences established between A and B lists of candidates is artificial and serves for election purposes. The ICC judges should have both criminal law and international law expertise to be competent to conduct *criminal proceedings* in order to establish individual criminal responsibility prescribed by *international law* in line with the highest *international standards* of a fair trial, defence rights, and victims' rights.

Through my professional path, I have acquired knowledge and experience in all the above-mentioned legal fields required for the position of ICC judge. I have expertise in international criminal law and international humanitarian law, including the provisions of the Rome Statute and the Rules of Procedure and Evidence of the ICC, international human rights law particularly related to criminal justice, criminal procedural law, including evidence law in both civil law and common law systems, and in mechanisms of international cooperation in criminal matters.

In these areas, I have reached the final step of professional advancement by becoming a tenured university professor at the University of Zagreb in 2016, a visiting professor at the University of Luxembourg, and senior research scholar at the Yale Law School (2014-2016). Believing that my legal knowledge should contribute not only to legal science, but also to the rule of law in practice, I have continuously been professionally active in the judiciary and in society in Croatia, as well as at the international level. My competence has been recognised through my engagement as an expert numerous times by international and domestic professional associations, NGOs, government institutions, and the judiciary. I have held over 70 public lectures at international and national conferences and have written over 60 publications in the field of human rights, international criminal law, criminal procedural law, and criminal law. Through these activities, I have dealt with the implementation and application of international standards in the criminal justice system and have sought to raise the level of human rights protection in law and in practice. My commitment to strengthening international legal standards in the criminal justice field has been recognised by the media and the general public, as I have had the opportunity to regularly participate in the public life of Croatia, giving my opinion on relevant issues. Through my public statements and professional activities over the last twenty years, I have proven myself to be independent of any influence other than that of legal arguments.

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I firmly believe that my in-depth and extensive legal knowledge in the relevant fields, intellectual flexibility with unlimited interest in trying to resolve new legal questions, professional experience, inclination to work in an international environment, working energy, professional perseverance, and independence qualify me as a person that will, as an ICC judge, substantially contribute to the development and promotion of international criminal justice.

I would also be honoured to be the first judge from Croatia and from Southeast Europe at the ICC. I come from a region that has had an International Criminal Court but has never had an international criminal judge. Since the very beginning, the Republic of Croatia has supported the idea and the activities to establish a permanent International Criminal Court. Croatian representatives actively participated in the work of the Diplomatic Conference in Rome in 1998, and in the adoption of the Rome Statute. Croatia was the first state of Southeast Europe to ratify the Rome Statute and joined the circle of original parties to the Statute for whom the Statute entered into force on 1 July 2002. Having adopted new laws and by amending existing national legislation, Croatia has fully implemented the Rome Statute, including ratifying the Kampala Amendments and their implementation in the Croatian Criminal Code, and ratifying the Agreement on Privileges and Immunities of the ICC. Croatia continuously supports and actively participates in all the activities organised by the ICC for the States Parties of the Rome Statute. For these reasons, it would be a special honour for me and for Croatia if I were elected judge of the ICC.

**2. What do you believe are the most important challenges and achievements of the ICC in its first 15 years?**

Speaking of the challenges facing the Court, it is possible to differentiate between the institutional challenges of the Court and the professional challenges of the ICC judges in their day-to-day work. The institutional challenges are related to the ICC as an institution of international justice aiming to fight impunity at the global level and determined by the given legal framework and national and international political decisions that are out of the hands of the ICC judges. However, from the point of view of the effectiveness of the ICC's work, this division is only superficial, as any institutional challenge is reflected either in the ability of the prosecutor and judges to conduct proceedings or in the perception of their work as righteous, effective, and justified.

The most-important challenges of the ICC in its first 15 years:

1. The ICC was established as a universal court to protect global values. The primary task of the Court is to put an end to the impunity of perpetrators of the most serious crimes that threaten the peace, security, and well-being of the world. This task can be realised only once the Rome Statute is universally ratified. Today, its jurisdiction is limited to 124 states, which means that 70 states are not State Parties, including the most powerful and the most populated states. Achieving the *universality* and full implementation of the Rome Statute is certainly the most important and yet most difficult task from a global perspective. The lack



of jurisdiction over ICC crimes undermines the Court's global mandate and damages the Court's reputation. Although there has been a permanent increase in ICC State Parties since its establishment (21 states in the last ten years) and the Court has the chance of acquiring universal jurisdiction through a Security Council referral, many atrocities worldwide are occurring without ICC intervention. This creates the perception of selective justice and the ICC's inability to fulfil its tasks. In the last few years there has been a new danger to the ICC's jurisdiction coming from the states that are threatening to withdraw from the Rome Statute (three states in 2016). So far, the Rome Statute system has proven to be robust enough to prevent these withdrawals.

2. Certainly, institutionally and operationally the most important problem for the Court is the lack of a coercive *enforcement system* that otherwise supports all national criminal justice systems. The ICC has adjudicative jurisdiction, but it does not have enforcement jurisdiction. Therefore, it depends entirely on state *cooperation* for the collection of evidence and for the presence of the accused. A problem arises from the fact that the ICC is a criminal court that mainly prosecutes and adjudicates on high-level state officials, which can be and often is the reason for states to avoid cooperation. Additionally, in contrast to *ad hoc* courts, the ICC is not a UN organ, and the Security Council does not use, not even in the case of SC referrals, its mechanisms from Chapter VII of the UN Charter to ensure the enforcement of ICC decisions. Non-execution of the Court's requests can have a very negative impact on its credibility and can render it powerless. This has been proven in cases of failure to execute ICC arrest warrants and in the failure of ICC criminal proceedings due to a lack of cooperation from governments. In recent years, the State Parties have been making considerable efforts to establish mechanisms for cooperation, such as the Bureau and focal points on non-cooperation, non-cooperation response procedures, and an Action Plan on arrest strategies, but their effectiveness remains questionable. On the issue of cooperation, I published an extensive analysis in 2016 in the paper "Legal and Political Limitations of the ICC Enforcement System: Blurring the Distinctive Features of the Criminal Court".
3. *A relationship with the UN Security Council* is crucial for effectiveness and for the global mandate of the ICC. However, in the last decade the Security Council competences established by the Rome Statute have proven to be the heaviest burden and central problem for the Court. Generally, the fact that the Court is not a UN organ raises several problems, such as the cooperation of states and the enforcement of ICC decisions, the issue of political influence on decisions to prosecute, and the financing of the Court. Furthermore, the SC does not consider the ICC to be its subsidiary organ even when it uses its power of referral to the Court under Chapter VII of the UN Charter. The SC's referral resolutions expressly stipulate that other non-State Parties have no obligation to cooperate. In two cases that were referred to the Court by the SC, there was no follow-up by the SC and no application of any UN enforcement powers and a failure even to acknowledge non-cooperation by Sudan and Libya. Furthermore, the SC's referrals have exacerbated double standards beyond the inequalities already in the UN system. Firstly, not all cases of gross violation of human rights have been

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referred to the ICC due to a veto by one of the five permanent members (Sri Lanka, Zimbabwe, North Korea, Syria). Secondly, the SC in its referral resolutions shields perpetrators of atrocities on the basis of citizenship, excluding nationals from the non-party state from ICC jurisdiction for crimes committed in the referred situations. So, assertions that the SC is instrumentalising the ICC, externalising to the Court its own political problems, and using it as a repository for its cases, without assuming any responsibility, have unfortunately proven to be accurate. Such a practice of the SC has the potential of delegitimising the ICC in the eyes of the international community, as the failure of the SC would become the failure of the ICC.

4. The fact that the prosecutor's office has instituted criminal proceedings only for crimes perpetrated on the African continent and has conducted proceedings against three heads of states from Africa has generated *allegations of ICC bias against Africa*. It has also led to the implementation of a policy of non-cooperation by the African Union, adopting a range of non-cooperative measures towards the ICC, including the ICC withdrawal strategy in 2016. Some related initiatives, such as one to repeal the capacity of the ICC to conduct proceedings against serving heads of state, would irreparably weaken the Court's effectiveness, and perhaps even the justification of its existence. This development is very unfortunate, as the African states have undoubtedly been the greatest proponents and supporters of the ICC, as they have contributed greatly to the ICC's conception, establishment, and to cooperation with it. Without referrals from the African states and their cooperation, the Court would have had no work and would have become insignificant. One should recognise that on the one hand there is state support of international criminal justice in general, or in relation to prosecution in other states, and on the other hand there is support of international criminal justice by ceding sovereignty and demanding intervention in one's own state, which until now has taken place only in Africa. The ICC's focus should move from African cases in the future, and it is clear that the ICC is currently doing this. In 2016, the ICC opened its first investigation in a situation outside Africa (Georgia) and, among 10 preliminary examinations, only four are African. More emphasis should also be placed on the contribution made by African states to the creation and development of the ICC and on the significance and benefit of the ICC for African victims.
5. Due to very complex cases and procedures before the ICC, the large number of victims, and external factors such as lack of cooperation and intimidation of witnesses, criminal proceedings before the Court are very long (Bemba Gombo – 8 years, Gbagbo and Blé Goudé – 6 years, Katanga – 7 years, Lubanga - 8 years, Ngudjolo – 5 years). Furthermore, it takes another few years to decide on reparations. Despite these objective reasons, the *excessive length of proceedings* conflicts with the fundamental right to be tried within a reasonable time. From the perspective of the right to a fair trial, such length cannot be justified. Therefore, the States Parties and the judges have to continue to search for a legislative solution for speedier and more efficient criminal proceedings, and for an improvement in the modalities for a large number of victims to participate in the proceedings.



6. The correct implementation of the law and the jurisprudence of international criminal law and international humanitarian law are among the major challenges for ICC judges. They are responsible for the *development of case law* related not only to the implementation of the modalities of individual criminal responsibility and elements of crimes, but to many procedural issues such as the admissibility of evidence, defence rights, victim participation and representation, and the principle of complementarity.
7. Preserving the *independence* of the Court and the judges. The ICC is the first international criminal court whose judges do not have competences to adopt rules of procedure and evidence (except temporarily in urgent cases), but this competence is given to the State Parties. This solution has resulted in the last few years in attempts of the states and the Assembly of States Parties to legislate on issues at stake in the ongoing trials and to make decisions that only judges and judicial bodies are competent to make (e.g., admissibility of evidence and the presence of a defendant at the trial). This has been characterised as putting political pressure on the decision-making of independent ICC judges and political interference with ongoing prosecutorial and judicial proceedings. However, at the last ASP in 2016, there were no such attempts.
8. By increasing the number of situations and cases before the Court, problems with the *budget* of the Court could arise. Thus, in 2016, the ASP approved a substantially lower budget than requested by the Court. This will negatively affect the overall efficiency of the Court. A particular problem is the cost of activities related to situations referred by the Security Council, which are borne exclusively by the State Parties.

In the 15 years of its existence, despite facing challenges far greater than those its predecessors encountered, the ICC has justified its establishment and gained long-term credibility. The most important achievements of the ICC in its first 15 years are:

1. The ICC is an *extraordinary achievement* in the international community, accomplished by the significant transfer of sovereignty by states to the ICC. Its existence and judicial activities in prosecuting mass atrocity crimes in a world run by politics and particular interests is a great victory for humanity. The Court has made important contributions at the global level to the promotion of the rule of law and human rights. We are witnessing progress in achieving universality and the full implementation of the Rome Statute, bearing in mind that we have to limit our expectations and that reaching the final goal is a long historical process.
2. Using the mechanisms of *complementarity* and *subsidiary jurisdiction*, the ICC has greatly contributed to the implementation of international standards in national judicial systems. The ICC has had a significant impact based on its functions of monitoring and fact-finding and has factually, politically, and legally encouraged and helped national judicial bodies to investigate and prosecute perpetrators of the most egregious crimes. Besides promoting the primary jurisdictional

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competence of the states, the ICC has had a deterrent effect in preventing crimes from reoccurring. Therefore, the ICC cannot be evaluated based only on the number of cases and criminal proceedings, but also on its impact on national prosecutions and on crime prevention.

3. The Court has conducted *highly complex proceedings* while implementing the highest international standards of independence, impartiality, fair trial, defence rights, and the victim's participation and reparation rights. The Court's workload is expanding, the number of situations and cases is increasing, and it has become a fully operational criminal court. The Court has opened 10 preliminary examinations, 10 situations are under investigation, 25 cases are opened, and 41 individuals have been indicted.
4. The hallmark of the Court is the position and role of *victims* in criminal proceedings. For the first time in the history of international criminal justice, victims have the right to participate in the proceedings and to request reparations. The ICC jurisprudence has developed victims' rights, the modalities of participation and legal representation, and the modes of individual and collective reparations. However, this new function of the criminal court has resulted in new challenges related on the one hand to finding a correct balance with defence rights, and on the other hand related to the reconciliation process in post-conflict situations and to the numerous victims who have not participated in the trial.
5. Although the number of ICC cases is modest, the Court's case law has already substantially contributed to the *development of international criminal law and international humanitarian law*. Besides the already-mentioned ICC case law on victims, ICC judges have rendered important decisions related to sexual violence, defence rights and fairness of proceedings, the admissibility and legality of evidence, the competence of the Court to compel a country to secure the compulsory appearance of a witness, the test for the assessment of complementarity, head-of-state immunity and the obligation to cooperate with the ICC, as well as crimes related to the use of child soldiers in war and to the destruction of cultural heritage.
6. In the last few years, the Court has managed to be more efficient and effective by substantially shortening the length of proceedings. The ICC current President has made the effectiveness of proceedings a top priority in her work. The Court has managed to shorten the confirmation of charges phase, streamline proceedings to ensure trial readiness, amend the rules of procedure, adopt internal practice manuals, identify lessons learned, and develop qualitative and quantitative performance indicators.

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

All the previously mentioned major challenges will remain challenges for the ICC and the Rome Statute system in the coming years. It has also been seen that some achievements, as in the case of enhancing the victim's role in criminal proceedings, generate new challenges. One that has not been mentioned and represents an imminent challenge at the next session of the Assembly of State Parties is the activation of the Court's jurisdiction with respect to crimes of aggression. The Court may exercise jurisdiction only with respect to crimes of aggression committed one year after ratification by at least thirty States Parties, and an additional decision to be taken after 1 January 2017 by a two-thirds majority of States Parties. By May 2017, 34 States Parties had ratified the Kampala amendments and enabled the Assembly to take a decision to activate the Court's jurisdiction over crimes of aggression in 2017.

However, the activation of ICC jurisdiction is not only an issue of reaching a two-thirds majority but also of resolving many questions raised in relation to the scope of the Court's jurisdiction after activation. These questions are related to finding an appropriate interpretation of the unclear or even conflicting provisions of the Rome Statute and the aggression amendments. The current discussion is about the decision on whether the ICC has jurisdiction with respect to aggression committed by or on the territory of a non-ratifying state and whether the State Parties have to opt-in or whether ICC jurisdiction is automatic and the State Parties have to opt-out.

**Nomination Process**

**4. What are the qualifications required in the State of which you are a national for appointment to the highest judicial offices? Please explain how you meet these qualifications.**

According to Article 51.4 of the Croatian Act on the State Judicial Council, a judge of the Supreme Court of the Republic of Croatia may be a person who has been at least 15 years a judge, state attorney, attorney, public notary or a university professor of law who has passed the bar exam and has at least 15 years of professional experience after passing the bar exam. According to Article 5 of the Constitutional Act on the Constitutional Court of the Republic of Croatia, a judge of the Constitutional Court may be a lawyer with at least 15 years of professional experience who has distinguished him/herself through scientific or professional work or public activity, and a person who obtained a doctorate of law may be elected if s/he has at least 12 years of professional experience.

I meet the qualifications required for appointment to both the Supreme Court and the Constitutional Court of the Republic of Croatia, as follows: I am a tenured professor of law; I passed the judicial state (bar) exam in 1994; I have 25 years of service in the judiciary and at university; I have distinguished myself by intensive scientific, professional and public activity.





5. Have you provided the statement required by Article 36(4)(a) of the Rome Statute and by the nomination and election procedure adopted by the Assembly of States Parties? If not, please provide an explanation for this omission.

Yes, this statement accompanied the documents for nomination submitted by the Republic of Croatia.

### **Legal System**

6. The Rome Statute seeks judges representing all of the world's major legal systems.

- a) Which legal system is your country part of?

The Croatian legal system belongs to the civil law (European continental) system. However, while criminal substantive law is based on the German legal tradition, since 2008 Croatian criminal procedural law has introduced many principles and notions from common law systems, such as the expansion of prosecutorial powers and discretion, the introduction of the guilty plea for all criminal offences, the disclosure of evidence, the introduction of the adversarial system of trial with cross-examination of witnesses and reducing the inquisitorial powers of judges at the trial.

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

Although most of my education, specialisation and work have been within the civil law system, I have extensive knowledge of the common law system that I acquired through my education, study and research visits and work in common law countries. I spent the 1996/97 academic year at the Institute of Criminology, University of Cambridge, UK, where I attended classes in English criminal law and criminal procedural law and obtained an M.Phil. degree in Criminology. In July 2004 I participated in the International Visitor Program "US Judicial System" where I had the opportunity to visit and learn in practice about legal, judicial, penitentiary and political institutions in several US states. In 2010 I spent seven months at the Berkeley Law School, US, as visiting professor, not only teaching the course "Criminal Law Aspects of the ECHR" but also attending university lectures and discussions on US criminal law, criminal procedure and constitutional law.

My expertise in the field of Anglo-American legal systems was extensively deepened in the last two years that I spent at the Yale Law School. There, I conducted a research project "Towards a European Criminal Procedure: Integration at the Expense of Human Rights (EuroCrimPro)" based on a comparison of American and European integration of the criminal justice system

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(an analysis of the US federal criminal justice system and federal criminal proceedings with the aim of seeking appropriate solutions for European integration). Being at one of the best law school in the world for two years, I used the opportunity to follow and participate in different courses on common and comparative law, such as Criminal Law and Administration (James Whitman), Criminal Procedure: Adjudication (Steven Duke), Evidence (Dan M. Kahan), History of the Common Law (John H. Langbein), Procedure (Harold Hongju Koh), Comparing U.S. and European Constitutionalism (Dieter Grimm).

Due to my broad knowledge of the common law criminal justice system, I have regularly used comparative legal analysis in my scientific work, research papers and teaching.

### **Language Abilities**

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

a) What is your native language?

Croatian

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 in speaking and writing. I am constantly using English in my professional activities, such as writing articles, lecturing and speaking on an everyday basis. I studied for one year and obtained an M.Phil. degree in English at the University of Cambridge, UK; spent a semester at the Berkeley Law School, US, teaching a course in English to students and spent last two years at the Yale Law School, US.

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 can read and understand French very well and am capable of conversing in French. I studied French language in 1993/4 at the University of Zagreb. After finishing the Faculty of Law in June 1992, I was for three months a trainee at the Cantonal Police Service in Sion, Canton Valais, Switzerland. The following year, I was for four months a trainee at the Cantonal Court in Sion, Canton Valais, Switzerland. I have used legal literature for more than two decades and have attended conferences, lectures and meetings in French. I can read judgments in French and follow criminal proceedings in this language. I have not had the opportunity to work in French. I am following an intensive course in the French language in order to improve my existing speaking skills. I admire the French language, and as an ICC judge I would bring it in professional and private use to the same level as my English.



### List A or B Criteria

8. Your response to this question will depend on whether you were nominated as a List A candidate or a List B candidate. Since you may have the competence and experience to qualify for both lists, please feel free to answer both parts of this question to give the reader a more complete view of your background and experience.

a) For **List A** candidates:

- Briefly describe your qualifications as a List A candidate.

I have been nominated as a List B candidate, but I also have the expertise and thorough competence required for a List A candidate.

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

My whole career has been in the field of criminal law and procedure. I obtained my Master of Laws, M.Phil. and PhD in criminal law and procedure. As a university professor at the Faculty of Law of the University of Zagreb, I teach as a main subject criminal procedural law which is my principal field of research and I have published numerous papers in criminal law and procedure. For seven years, I was head of the Department of Criminal Procedural Law at the University of Zagreb. As a leading national proceduralist, I was appointed by the Ministry of Justice as the president of the Committee drafting the new Croatian Criminal Procedural Code in 2012/13. Since 2016, I have been president of the Croatian Association of Criminal Sciences and Practice, the most important association of criminal law experts in Croatia. Therefore, I would consider myself highly competent in criminal law and procedure.

I demonstrate my high competence in criminal law and procedure through the following selected papers published in the last 8 years (selected):

1. Constitutional rights, the European Arrest Warrant and EU Criminal Law, chapter in the Croatian Report, forthcoming in Albi, A. (ed) *The Role of National Constitutions in European and Global Governance*, T.M.C. Asser Press 2017. (English)
2. The Directive on the Right of Access to a Lawyer in Criminal Proceedings filling a human rights gap in the European Union legal order, in Đurđević, Ivičević Karas (eds) *European Criminal Procedure Law in Service of Protection of European Union Financial Interests: State of Play and Challenges*, Croatian Association of European Criminal Law, 2015 (English).
3. The legal nature, legal framework and purpose of bail in criminal proceedings: can it survive the decision of the Constitutional court of the RC, No. U-III-1451/2015, to terminate the pre-trial detention of the mayor of the City of Zagreb and to return the bail posted by his defence counsel? *Croatian Annual of Criminal Law and Practice*, 1/2015, 9-47. (Croatian)

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4. Arrest and pre-trial detention, in Katalin Ligeti (ed) Towards a prosecutor for the European Union, Volume 2, Oxford: Hart Publishing, 2017 (in press, English)
5. Right to effective investigation in criminal matters: Analysis of Croatian practice and law, Croatian Academy of Sciences and Arts, 2014, 105-150. (Croatian)
6. Main characteristics of prosecutorial investigation according to the Croatian Criminal Procedural Code from 2008 to 2013, in Jovanović (ed) Prosecutorial Investigation: Regional Criminal Procedure Legislation and Experiences in Application, OSCE Mission to Serbia, Belgrade, 2014, 65-86. (English)
7. Reconstruction, judicialisation, constitutionalisation, and Europeanisation of the Croatian criminal procedure with the 5th Amendment of the Criminal Procedure Act/08: Part One? Croatian Annual of Criminal Law and Practice, 2/2013, 313 – 362. (Croatian)
8. Results of the work of the Ministry of Justice working group for aligning the Criminal Procedure Act with the Constitution of the Republic of Croatia, Croatian Annual of Criminal Law and Practice, 1/2013, 3-100. (Croatian)
9. Judicial control in pre-trial criminal procedure conducted by the European Public Prosecutor's Office, in Ligeti, Katalin (ed.), Toward a Prosecutor for the European Union, Volume 1, Oxford: Hart Publishing, 2013, 988-1012. (English)
10. Criminal Procedural Law: Practicum, 4nd edition, Zagreb: Narodne Novine, 2012. Editor and Co-author, (Croatian)
11. Legal report for Croatia, in Schumann/Bruckmüller/Soyer (eds.), Pre-trial Emergency Defence: Assessing Pre-trial Access to Legal Advice, Intersentia, Wien-Graz, 2012, 59-71. (English)
12. Croatia – National Report: The area of freedom, security and justice, including information society issues – FIDE XXV National Reports, in: Laffranque, Julia (ed.), Reports of the XXV FIDE Congress Tallinn, Tartu University Press, 2012, 235-259 (co-author). (English)
13. The modern development of Croatian criminal procedural law with special reference to the 2011 amendments to the Criminal Procedural Act, Croatian Annual of Criminal Law and Practice, 2/2011, 311-357. (Croatian)
14. Presenting evidence, co-author with Dražen Tripalo, Croatian Annual of Criminal Law and Practice, 2/2011, 471-488. (Croatian)
15. Some issues on the European Public Prosecutor from the Croatian perspective, Ochrona interesów finansowych a przemiany instytucjonalne Unii Europejskiej, Varšava: WAIp, 2010, 163-184. (English)

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- How would you describe your experience as a judge, prosecutor, counsel, or in another similar capacity, in criminal proceedings?

I have passed the State Judicial Exam and practised law at Croatian courts for two years as a judicial apprentice. In this position I had the opportunity to conduct proceedings at the communal court, and I drafted a significant number of judgments of conviction at the county court for serious offences. By opting for a university career, participation in criminal proceedings as judge, prosecutor or defence counsel was no longer open to me. In Croatia, it is not allowed for university professors to work at the same time as a judge, prosecutor or defence counsel. However, it is possible for them to give written legal opinions to defence lawyers, courts and the prosecution service. Since 2003, I have regularly given legal opinions in criminal cases to defence lawyers that have been used in criminal proceedings in first and second instances and before the Constitutional Court and the European Court of Human Rights. In 2015 and 2016, I was Croatia's expert witness in the UNCITRAL and ICSID arbitrations in the MOL Hungarian oil and gas PLC v. Republic of Croatia case and provided four written and two oral expert testimonies on the compliance of the Croatian criminal justice system and criminal proceedings before the Croatian Court with international standards.

b) For **List B** candidates:

- Briefly describe your qualifications as a List B candidate.

I am a university professor of human rights law, international criminal law and procedure and international cooperation in criminal matters. The subjects of my publications, the topics of lectures and presentations, and my consultative work to non-governmental organisations, government and other state institutions, defence lawyers, courts, the prosecutor's office and the media, clearly demonstrate that I am considered an expert in the field of human rights law and international criminal law.

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

Beside criminal procedural law, my other two foci of interests are international human rights law and international criminal law including international humanitarian law. Concerning international human rights law, I have conducted research on many issues related to the criminal justice system, particularly defence rights, victims' procedural rights and the right to effective investigation, fair trial rights such as judicial independence and the right to a trial within a reasonable time, the prohibition of torture, the right to effective remedy and the right to liberty. At the University of Zagreb, I have introduced the course "Human rights and criminal justice" and a regional moot court competition in human rights. Beside teaching courses on human

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rights law at undergraduate and postgraduate levels, I have supervised five doctoral theses in the field of human rights (Vesna Batistić Kos, "Positive Obligations under the ECHR", defended in October 2011; Laura Valković, "The Legal Status and Obligations of the Defence Counsel in Light of the Defendant's Right to an Effective Defence in Criminal Proceedings", defended in July 2011; Ante Novokmet, "Judicial Control of Charges" defended in July 2014; Gregori Graovac, "Protection of the Right to Personal Liberty in Criminal Proceedings in the Practice of the Constitutional Court of the Republic of Croatia", June 2017). I also acted as a pre-reviewer at the University of Tartu, Estonia, of the PhD thesis of Anelli Soo "Is There a Solution for the Ineffectiveness of the Defence Counsel? Judicial Supervision of the Performance of the Defence Counsel in Estonian Criminal Proceedings", defended in January 2012.)

As a visiting professor at the Berkeley Law School, US, in 2010, I taught the course "Criminal Law Aspects of the European Convention of Human Rights".

I regularly publish papers at the intersection of human rights and criminal justice and have published a book with summaries of all judgments of the ECtHR against Croatia in criminal matters. My legal opinions on issues in criminal proceedings mainly deal with international human rights standards. In 2010 I gave a very extensive legal opinion to the Constitutional Court on the compatibility of the Criminal Procedure Act (CPA) with the ECHR. This legal opinion became an official part of the judicial file and the substantive basis for the Constitutional Court's decision to abolish 43 provisions of the CPA. I have given numerous public presentations at international and domestic events on human rights law.

I teach international criminal procedure and international cooperation in criminal matters at the University of Zagreb, and international criminal law and procedure at the University of Luxembourg. Within my specialisation and courses in international criminal law, I also deal with international humanitarian law. In 2016, I participated in the International Humanitarian Law Workshop at Yale Law School discussing topical issues such as: conflict classification, civilians directly participating in hostilities, battlefield status and protected persons, detention and internment, non-state actors and state responsibility.

Since I come from a state which in the 1990s had a war conflict that was followed by the establishment of the *ad hoc* ICTY, I had the opportunity to follow criminal proceedings before the ICTY, the development of international criminal law in relation to domestic events and cases, the implementation of that law in the national criminal justice system and its application by the domestic courts. In my scientific and public work, I particularly focused on issues of cooperation with the ICTY and procedural aspects. In lectures and seminars at the University of Zagreb, I place special attention on the topics of the establishment of the ICTY and the ICC, arrest, surrender and other

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issues of cooperation, and the procedure before these courts. I have also been involved in issues of judicial cooperation in the region in the prosecution of the war crimes.

I have developed intensive cooperation with Croatian NGOs dealing with war crimes on the territory of ex-Yugoslavia, such as the NGO Documenta – Centre for Dealing with the Past, and the Centre for Women War Victims, and have organised conferences, written reports and reviews and given lectures at their request. I organised and presided over the international conference “Legal and social legacy of the International Criminal Court for ex-Yugoslavia” at the University of Zagreb in 2011; I gave a lecture “Criminal law cooperation in the prosecution of war crimes” and contributed with a presentation at the panel “Legacy of the International Court and its role in processes of transitional justice” that formed part of the Conference "ICTY Legacy in ex-Yugoslavia", Zagreb, 2012; another of my presentations was titled "Act on the nullity of certain legal acts of judicial authorities of the former Yugoslav People's Army, the former Yugoslavia and the Republic of Serbia,"; I also contributed to the round table "The Necessity of Effective Prosecution of War Crimes by Strengthening Regional Cooperation and the Prosecution of Persons with Command Responsibility," Zagreb, 2012; At the Symposium “The ICC Review Conference 2010 – The Future of the ICC” at Tübingen, Germany, I gave presentation "Sovereignty v. International Criminal Justice: a National Security Exception to a State’s Duty of International Cooperation".

Recognising my specialisation in international criminal law, the President of Croatia, Dr. Ivo Josipović, appointed me as his personal envoy to work on the Statute of the Regional Commission for Establishing the Facts about War Crimes and Other Gross Violations of Human Rights Committed on the Territory of the Former Yugoslavia (RECOM). RECOM is an initiative of non-governmental organisations in the region to establish a regional commission as a post-ICTY mechanism. Expert input and the work of the personal envoys on the creation of the Statute finished in June 2014 ([www.zarekom.org](http://www.zarekom.org)).

I demonstrate my high competence in human rights and international criminal law through the following selected papers published in the last 8 years (selected):

1. Legal and political limitations of the ICC enforcement system: blurring the distinctive features of the criminal court, in Ackerman, Ambos, Sikirić (eds.), Visions of Justice, Essays in Honor of Professor Mirjan Damaška, Duncker & Humblot, Berlin, 2016.



2. Baseline Study on the Compliance of the Legal Framework of the Republic of Croatia with the Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention), Zagreb: Centar za žene žrtve rata – ROSA, 2014.
3. Judgements of the European Court of Human Rights Against the Republic of Croatia in Criminal Matters, Zagreb: Zagreb University Press, 2013. Co-editor and co-author.
4. Decision of the Constitutional Court of the Republic of Croatia on compliance with the Constitution of the Criminal Procedure Act, Croatian Annual of Criminal Law and Practice, 2/2012, 409-438.
5. Interpretation of the Act on nullity of certain legal acts of judicial authorities of the former Yugoslav People's Army, the former Yugoslavia and the Republic of Serbia, Zagreb Law Review (<http://revija.pravo.unizg.hr/index.php/zpr/index>), no. 1/2012, 109-121
6. Illegal evidence in Croatian Criminal Procedure: Compliance with international and constitutional guarantees, Proceedings of the Law Faculty "Justinian First" in Skopje, in honour of Nikola Matovski, Skopje, 2011, 119-141.
7. Freedom of expression: Article 10 European Convention for the Protection of Human Rights and Fundamental Freedoms, in: Ivana Radačić (ed) Harmonisation of Croatian Legislation and Practice with the European Convention for the Protection of Human Rights and Fundamental Freedoms, London: Centre for Peace Studies, 2011, 153-189.
8. Judicial control of criminal prosecution and investigation: Comparative and constitutional aspects, Croatian Annual of Criminal Law and Practice, 1/2010, 7-24.
9. Procedural rights of the defence in relation to the co-defendant as a witness for the prosecution, Croatian Annual of Criminal Law and Practice, 2/2009, 783-808.
10. National Report - Croatia: Special procedural measures and respect of human rights, Revue Internationale de droit penal (RIDP/IRPL), vol. 80, no. 1/2, 2009, 113-127.

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- How would you describe your professional legal experience that is of relevance to the judicial work of the ICC?

In the 25 years of my professional legal experience, I have gained thorough legal knowledge in the areas of law relevant for the judicial work of the Court. I have developed the required analytical skills to determine the relevant legal facts and the correct application of law and have managed to build bridges between theoretical analysis and practical solutions. I have been able to write complex legal opinions on human rights issues and international standards in criminal proceedings, and on the constitutionality of the Croatian Criminal Procedural Act. I have run eight international and nine domestic scientific projects and have studied and worked for a total of almost seven years abroad (Sion, Cambridge, Berlin, Augsburg, Graz, Freiburg, Berkeley, Yale). My participation in international associations (AIDP, ECLAN) also indicates that I have a preference for work in the international environment and have always used opportunities to gain new foreign and international professional experience and knowledge. My comprehensive opus demonstrates that I am hard working and possess professional enthusiasm and perseverance. Finally, I am considered to be a person respectful of others with full integrity and honesty.

### **Other Expertise and Experience**

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.

Beside the already mentioned activities, I have been a member of several public bodies of the Republic of Croatia conducting specific types of proceedings for the establishment of individual responsibility or recognising certain rights. For four years (2008-2012) I was a member of the Commission for Asylum that was a second-instance body deciding upon the appeals of asylum seekers. The decision on the appeal was made after conducting the trial and the examination of the asylum seeker. Serving in this commission, I gained additional knowledge of human rights law related to asylum and better understanding of political and legal situations in this specific part of the world; I conducted trials and interrogations before the Commission and wrote decisions and judgments. Also, I was a member of the State Attorneys' Council (2010-2011), an independent body with judicial powers to determine disciplinary responsibility and to decide on the appointment of prosecutors. For four years (2005-2008), I was a member of the State Commission for conflict of Interest, an independent body with judicial powers to determine the responsibility of public officials for conflict of interests. In all three Commissions, I was elected as an independent and impartial expert.

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Due to my legal knowledge, besides being the president of the Expert Committee drafting a new Croatian Criminal Procedural Code in 2012/13, I was also the president of the Expert Committee drafting amendments to the Act on International Legal Assistance in Criminal Matters (2012) and a member of the expert committee drafting legislative acts in the area of criminal justice, international cooperation in criminal matters and European criminal law (the Act on the Liability of Legal Persons for Criminal Offences, the Criminal Procedure Act, the Act on International Legal Assistance in Criminal Matters (2004), the Mental Health Act). I was a member of the negotiating team for the accession of the Republic of Croatia to the European Union for Chapter 24 "Justice, Freedom and Security".

I am currently president of two major Croatian Association on criminal law: The Croatian Association for Criminal Sciences and Practice and the Croatian Association on European Criminal Law.

- 10.** 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 an expert in the areas of international substantive and procedural law, I possess legal expertise regarding crimes over which the Court has jurisdiction, as well as over the procedural issues before the Court, such as the disclosure of evidence.

While participating in the creation of the Statute for RECOM (Regional Commission for Establishing the Facts about War Crimes and Other Gross Violations of Human Rights Committed on the Territory of the Former Yugoslavia), the elements of crime of the offences under Court jurisdiction was a point of discussion and decision-making. I have also closely followed the cases and application, interpretation and development of substantive criminal law before the ICTY with regard to the forms of individual criminal responsibility. As the main organiser of the international conference "Legal and social legacy of the International Criminal Court for ex-Yugoslavia" I have given special attention to the issues of the correct implementation of international crimes in the Croatian criminal code.

As concerns the disclosure of evidence or any other procedural act or principle, the criminal procedural law is my principle field of research and teaching, and my expertise in this area can be demonstrated clearly in my writings and public presentations. I have researched and written about the disclosure of evidence in the book "Criminal Procedural Law: Practicum" and in several papers from 2010-2013. Croatia introduced in its 2008 Criminal Procedural Act (CPA) disclosure of evidence between the parties in criminal proceedings, but in a manner which



breached defense rights and impeded the Court from establishing the correct and complete factual situation. In my papers and legal opinion to the Constitutional Court on the compatibility of the CPA with the ECHR and the Constitution, based on comparative solutions and human rights law, I criticised this solution, and consequently the Constitutional Court proclaimed it as unconstitutional.

**11.** The ICC is a unique institution, and ICC judges will face a number of unprecedented challenges (including managing a regime of victims' participation and witness protection in situations 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.

a) Are you willing to participate in ongoing workplace training aimed at promoting legal innovation and coordination among all judicial chambers in adjudicating complex questions relating to law and policy?

As a professor and scientist I have been learning and specialising all my life. I have chosen the academic professional path because it gives me the opportunity to further specialise and improve my expertise and to satisfy my desire for knowledge and research in criminal justice and in the human rights field. Being aware of the difficulties and the variety of tasks ICC judges face, I would appreciate and welcome any instruction and training offered to ICC judges.

a) Do you consider such training to be important?

Certainly. The legal field is facing new challenges coming from technological advances, demands for efficiency and urgency in certain cases and coordination between different bodies involved in evidence gathering. Additionally, in order to have authority and recognition, ICC case law has to be developed in a consistent way. Therefore, coordination among all judicial chambers in adjudicating complex questions of law and policy is crucial for the integrity of the ICC.

### **Experience (and perspective) related to gender crimes and crimes of sexual violence**

**12.** Historically, many of the grave abuses suffered by women in situations of armed conflict have been marginalized or overlooked. Please describe any experience you may have in dealing with sexual and/or gender-based crimes and where you have applied a gender perspective, i.e. inquired into the ways in which men and women were differently impacted.



In the professional circles in which I am involved, it is well known that the gender perspective is strongly reflected in my activity and that I am very sensitive to the gender issues and to the discrimination of women. As a member of the legislative commission of the Ministry of Justice, I have personally drafted the provisions of the 2008 Criminal Procedural Act for the protection of victims of sexual and other violence. This resulted in the alignment of the Croatian CPA with the highest international standards for the protection of victims of sexual violence. Such standards include the following rights of a victim: to talk to a counsel before the interrogation, funding the victims' cost from the state budget; to be interrogated by a person from the police authority and the State Attorney's Office of the same sex; to refuse to answer questions related strictly to their private life; to request to be interrogated via an audio-video device; to confidentiality of personal data; and to request the exclusion of the public at the hearing. After criticism of prosecutorial discretion in the cases of violent crime, the Expert Commission, under my presidency, introduced as a requirement for concluding plea bargaining in the case of sex and violent crime the consent of the victim, and this became law in 2013.

I regularly cooperate with NGOs in Croatia on gender issues. I may highlight my recent participation in activities advocating the ratification of the Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention), such as a presentation in the Croatian Parliament, giving lectures to NGO groups in Croatia (seminars, round tables in 2013 and 2014) and writing the Study on the compliance of Croatian standards with the Istanbul Convention. This Study that was written at the request of the Centre for Women War Victims – ROSA, a non-governmental feminist organisation in Croatia, gave a comprehensive overview of all the requirements for the full implementation of the Istanbul Convention in the Croatian legal system, including the need for amendments of criminal substantive and procedural law and the development of adequate and speedy protection mechanisms.

Also, I published paper and lectured extensively on the right to an effective investigation, particularly in the case of sex crime. Croatia has been found by the European Court of Human Rights to be ineffective in the investigation of rape and this was a subject of my book "Judgments of the European Court of Human Rights Against the Republic of Croatia in Criminal Matters" (Zagreb University Press, 2013) and several papers such as "The right to effective investigation in criminal matters: Analysis of Croatian practice and law" (Croatian Academy of Sciences and Arts, 2014), as well as presentations such as "The right to an effective investigation of criminal cases", the Croatian Academy of Sciences and Arts, Zagreb, 2013 and "Execution of ECtHR judgments in criminal cases", Conference "Alignment of Croatian law and practice with ECHR standards", Zagreb, 2011.

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### **Victims-related work**

- 13.** Victims have a recognized right to participate in ICC proceedings and to apply for reparations under Article 75 of the Rome Statute. Please describe any experience that you may have relevant to these provisions and that would make you particularly sensitive to/have understanding of the participation of victims in the courtroom.

As a professor of criminal procedural law, the rights of victims are part of my expertise and I have dealt with the victim's procedural rights to participate in criminal proceedings, the right to protection outside and during criminal proceedings and the right to compensation or reparation. I have extensively written and lectured on the position and rights of victims of criminal offences. An example of my expertise is that for three years I was a leader of a research group in Croatia working for the Fundamental Rights Agency (FRA) on the assessment of victim status in Croatia, producing three annual reports, with special focus on victims of hate crime, domestic violence and the assessment of victims' rights in practice. Beside already mentioned activities in relation to the victims of sex crime, another point of my interest were victims of war crimes and their rights to participate in the pre-trial proceeding and the right to effective investigation. In Croatia, the victim traditionally participated as an injured party in criminal proceedings, but from 2008 the victim acquired additional procedural rights and protection. In order to strengthen the victim's right to effective investigation, the Expert Commission for the Criminal Procedural Act, under my presidency, introduced several rights of victims during the pre-trial stage of the investigation, such as the right to be informed and the right to remedy during inquiries and investigation, which became law in 2013. I am closely following developments at the ICC related to the victim's right to participation and the right to reparation.

- 14.** How would you address the need for a balance between victims' participation with the rights of the accused to due process and a fair and impartial trial? Do you have any relevant experience in dealing with this issue?

Both the right of the victim to participation in the trial as well as the right of the accused to a fair trial are basic human rights recognised by international law. The Rome Statute has for the first time allowed victims to participate in proceedings before the international criminal court not only as witnesses, but as victims with broad rights of participation and reparation. This is considered to be one of the most important achievements of the ICC, and no legal or practical difficulties should endanger its existence and realisation. Yet, the difficulties are considerable and reflect on many issues, such as the right of the accused to a fair trial, the legal representation of the victims, the cost of victim participation and the right to reparation. The conflict between victim rights and defendant rights is the classical situation of conflicting interests or rights in criminal proceedings that have to be resolved by finding the right balance. However, the issue before the



ICC is very complex, mainly due to the fact that international crimes involve a large number of perpetrators, and particularly victims. On the one side, besides testifying, the victims have the right to express their views and concerns at all stages of proceedings and to influence the decisions on the institution and admissibility of proceedings. On the other side, the defendant has the right to a fair trial which includes the right to a trial within a reasonable time, the right to be informed of the charges and of accusations during the whole trial and the right to have enough time and facilities to prepare a defence. These conflicting rights should be reconciled, preserving the right of the accused to a fair and impartial trial and finding the modalities to enable victims to participate in proceedings that will not endanger the fairness and effectiveness of the proceedings. Some solutions have already been found, such as defining who is a victim, and ensuring legal representation and notifications in order to prevent a lack of proper information to the victim. As already stated, I have been dealing with these issues throughout my career.

### **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.

I have been writing legal opinions for applications to the European Court of Human Rights. I sit on the board of directors of the International Association of Penal Law ([www.penal.org](http://www.penal.org)). I have collaborated in some projects with international human rights organisations such as the European Union Agency for Fundamental Rights, the Open Society, the Mental Disability Advocacy Centre Foundation, and the European Criminal Bar Association.

- 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 may have issued within the scope of your judicial activity or legal experience?

Although I have not issued a judicial decision, one of the main sources of reference in my legal opinions and in my writings are the provisions of international human rights treaties.



## **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.

I have referred in my presentations and writings many times to the jurisprudence of the ICC and *ad hoc* tribunals. In my paper “Legal and Political Limitations of the ICC Enforcement System: Blurring the Distinctive Features of the Criminal Court”, I referred to and analysed the ICC case law on immunity, as well as the ICTY Blaškić subpoena trial and appeal judgment. In my paper “Procedural Rights of the Defence in Relation to the Co-defendant as a Witness for the Prosecution” (Croatian Annual of Criminal Law and Practice, 2/2009, 783-808) I wrote a chapter on the judicial notice of adjudicated fact before the ICTY (Rule 94.B of the Rules of Procedure and Evidence), explaining the procedural guarantees that were introduced by the jurisprudence of the ICTY and the ICTR (Prosecutor v. Slobodan Milošević; Karemera et al., Appeal Decision; Prosecutor v. Dragomir Milošević; Popović et al., Decision). In my presentation “Criminal law cooperation in the prosecution of war crimes” at the international conference “Legal and Social Legacy of the International Criminal Court for ex-Yugoslavia” at the University of Zagreb in February 2011, I criticised the legal opinion of the Supreme Court of the Republic of Croatia that a witness statement given to the prosecutor of the ICTY is evidence in criminal proceedings before Croatian courts only after the official transfer of the proceedings from the ICTY to the Croatian Courts, but not in the case of the transfer of prosecution or particular evidence. Thereafter, in May 2011, the Croatian Act on the Application of the Statute of the International Criminal Court and Prosecution of Crimes against International Humanitarian Law was changed to include in the recognition of evidence any transfer of prosecution or particular evidence from the ICTY (Article 28a).

### **Other matters:**

- 18.** 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.



**19.** 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) Do you disagree or have difficulty with this expectation?

No, this is a core principle of international law and the rule 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.

**20.** Article 40 of the Rome Statute requires judges to be independent in the performance of their functions. Members of the CICC and governments are concerned about the difficulties a judge may experience in independently interpreting articles of the Rome Statute on which his or her government has expressed an opinion.

a) Do you expect to have any difficulties in taking a position independent of, and possibly contrary to, the position of your government?

No, through my up-to-date work I have many times in my papers, editorials, public statements criticised the actions, legislative drafts or statements of the government or its officials.

b) Article 41 requires a judge's recusal "in any case in which his or her impartiality might be doubted on any ground." Do you feel you could participate in a judicial decision involving a matter in which your government has an interest, such as on whether an investigation by your government into a matter of which the ICC was seized was genuine?

Yes, I would be able to decide impartially in cases where if the matter involves an interest of the Croatian government. However, in order to achieve the external, objective impartiality of the Court, I would recuse myself.





**21.** 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?

I do not have any difficulties with regard to the commencement and duration of the term.

b) Do you expect to be able to perform the judicial tasks described above on your own or with reasonable accommodation? If no, please describe the circumstances.

I am convinced that I can perform the judicial tasks on my own.

**22.** If there are any other points/issues you wish to bring to the attention of the CICC in this questionnaire, please feel free to address them here.

Thank you for your activities aimed at a public evaluation of the expertise, independence and integrity of candidates for ICC judge.