

2023 ICC Judicial Elections
Questionnaire to candidates

Name: Ute Hohoff

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Motivation

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

I am strongly convinced that core crimes which affect the international community as a whole must be resolutely prosecuted. Bringing the perpetrators of such crimes to justice is a crucial part of ensuring fundamental human rights. Additionally, court decisions provide official recognition of the historical truth that crimes have been committed and victims have suffered harm. Therefore, a functioning International Criminal Court (ICC) is of the essence. I would like to contribute to this court in a world in which multilateralism, international law and the rule of law are facing increasing challenges.

I am an experienced Judge and I have been working many years in the national judicial system dealing with transnational and international criminal law. With regard to my academic research, I am also familiar with the issue of transitional justice. As the next step, I would like to widen my remit to the international level.

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

For LIST A candidates

2. Please describe your experience as a judge, prosecutor, or criminal lawyer in domestic or international criminal law cases, including information on the number and types of cases as well as challenges you faced.

I would bring more than twenty years of relevant judicial experience to the ICC. I have worked on all levels of the German courts, in criminal proceedings as fact-finding instance and on the level of appeal.

From 2011 until 2017, I worked within a State Protection Division at Düsseldorf Higher Regional Court. We dealt as fact-finding instance with the crime of membership of or support for foreign terrorist organisations. We investigated several organisations including the Islamic State and Al Qaida, the Kurdish PKK and a Tamil organisation in Sri Lanka. Due to this experience, I am familiar with proceedings pertaining to crimes committed in a foreign country and thus with transnational law. As a former Presiding Judge at this Court, I am used to conducting factually and legally complex trials.

Since 2017, I have been serving on the bench of the Federal Court of Justice (currently 3rd Criminal Division), Germany's Supreme Court for criminal matters on appeal. I handle appeals

on points of law relating to all types of crimes including human trafficking, forced prostitution, sexual crimes in particular - but not only - against women and children, murder, manslaughter and all offences against property. Therefore, I have extensive experience in criminal appeals on points of law.

Additionally, as a Judge of the 3rd Criminal Division at the Federal Court of Justice, I am responsible for appeals in proceedings under criminal law concerning the protection of the state and pursuant to the German Code of Crimes Against International Law. The German Code of Crimes Against International Law mirrors the offences and the substantive law of the Rome Statute. The task and aim of the Federal Court of Justice in this context is to establish general principles for the application of International Criminal Law in Germany.

On average, our division deals with 600 proceedings on appeal per year. In our division, we are eight permanent judges (elected to the Federal Court of Justice) including the presiding judge; additionally, we get support from four scientific assistants, all seconded judges for the term of three years from different regional courts.

Besides my judicial experience, I have a profound academic background. From 1995 until 2000, I worked as research assistant at a chair of criminal law, criminal procedural law and legal philosophy. In this context, I did academic research on transitional justice and wrote my dissertation on this subject titled "On the boundaries of the definition of perversion of justice - a study of the cases against GDR lawyers".

Furthermore, I am an active lecturer and an author of commentaries and articles dealing with various aspects of criminal law and criminal procedure, recently in particular concerning the assessment of victim witnesses of sexual violence crimes from the perspective of the psychology of testimonials. Additionally, I take part in meetings and working groups with psychologists who work as forensic experts in criminal proceedings on the credibility of victim witnesses. With regard to my commentary on migration law, I am also familiar with the application of humanitarian law.

3. During your judicial career, please share any instances when you applied Rome Statute provisions or other international criminal or humanitarian law sources, directly or through 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 indicate any relevant judicial decision or opinion that you authored or co-authored.

In my current position as a Judge at the Federal Court of Justice, we deal *inter alia* with the German Code of Crimes Against International Law. As mentioned before, this Code implements Rome Statute offences and substantive law. As German law does not incorporate Rome Statute procedure, all German courts dealing with international criminal law (different Higher Regional Courts as first instance and the Federal Court of Justice on the level of appeal) have to apply German criminal procedural law in the proceedings.

My current division (3rd Criminal Division) is responsible for appeals on points of law against decisions of the Higher Regional Courts in proceedings pursuant to the German Code of Crimes

Against International Law. And according to German criminal procedural law, it is also responsible for the periodic review of detention during the investigation phase and - similar to the appeals chamber of the ICC - for (interlocutory) appeals against judicial decisions during the investigations and pending trial, e.g., inspection of files, seizure and detention pending trial.

In this context, two of our recent decisions of 30 November 2022 (3 StR 230/22) and of 9 March 2023 (3 StR 246/22) pertain to the genocide of the Yazidi population. In these cases, I was a member of the bench. In general, we deliberate in detail not only on the decision itself but also on the writing so that the final draft is always a result of a co-working process.

The first decision concerns the appeal of an Iraqi against a decision of Frankfurt Higher Regional Court of November 2021. Frankfurt Higher Regional Court convicted the accused, an Iraqi member of the IS, of - *inter alia* - genocide and a crime against humanity both resulting in death, and imposed a life-long sentence. It qualified the assault on the Yazidis in the Sinjar mountains in Iraq in and after August 2014 as genocide by causing grave physical or mental harm to a member of the group pursuant to article 6 (1) Nr 2 of the German Code of Crimes Against International Law. The underlying facts are as follows: The accused (an Iraqi member of the IS) and his wife, a German woman, held a Yazidi woman and her five-year-old daughter as slaves in their household in Fallujah in Iraq. The accused man regularly beat them. In August 2015 he tied the girl outside the house exposing her to such extreme heat and direct sunlight that she finally died. On appeal, we confirmed the conviction and the life-long sentence of the Iraqi man. For the definition of the term "causing grave physical or mental harm" we referred to the jurisprudence of the ICTY and ICTR and argued in general that the aim of the national legislation that incorporates Rome Statute offences is to establish a parallel system in national criminal law.

The German woman was convicted by Munich Higher Regional Court of - *inter alia* - assisting to an attempt of murder committed by omission and assisting to a crime against humanity resulting in death. She was sentenced to a joint sentence of 10 years imprisonment. On appeal of the Federal Public Prosecutor of Germany, we reversed the sentencing decision and ordered a new trial in this respect. The trial division had erred in not taking into account the specific genocidal intent of the woman as aggravating circumstance. To support the ruling, we referred to rule 145 (2) (b) (v) of the Rules of Procedure and Evidence and article 21 (3) of the Rome Statute and - additionally - to the decisions of the Trial Chamber and the Appeals Chamber of the ICC in the *Ongwen* case.

In a verdict delivered on the 28 January 2021 (3 StR 246/19) concerning functional immunity of a first lieutenant of the Afghan army, who tortured in Afghanistan - as joint perpetrator - three Taliban prisoners, our division stated that at least lower ranked members of public authority of a foreign state do not enjoy functional immunity in national criminal proceedings pertaining to war crimes. In this decision our division refers to a common practice of States and in this context to several decisions of other national European courts and international

courts, e.g. the International Military Tribunal of Nuremberg and the ICTY, publications of the International Law Commission and scholarly literature.

In general, concerning international criminal law, the majority of the cases we deal with fall under different war crimes. Additionally, some proceedings pertain to sexual violence as crimes against humanity, pursuant to article 7 (1) Nr 6 of the German Code of Crimes Against International Law. A number of these cases concern sexual violence to the detriment of Yazidi women involving alleged members of the terrorist organisation "Islamic State". In some situations, German women were charged with - *inter alia* - the crime of membership of the foreign terrorist organisation "Islamic State", the crime against humanity of enslavement and acting as an accessory to the crime against humanity of rape committed by her husband. Our division stated - by referring to the corresponding provision of the Rome Statute - that rape requires *inter alia* that the penetration has been committed by force, by threat of force or coercion or by taking advantage of a coercive environment.

In conclusion, as German international criminal law implements the offences of the Rome Statute in national law, the aim of the German courts is to reach consistency between the interpretation of the Rome Statute and national law. Therefore, it is absolutely necessary to be at all times and in detail informed about the jurisprudence of the ICC and the *Ad hoc* Tribunals.

(or)

For LIST B candidates

2. Please describe your international criminal law experience, particularly regarding legal research, legal opinions, and/or litigation concerning international criminal law matters and themes, as well as cases and situations. Please indicate any legal material, publication, or opinion that you authored or co-authored.
3. During your international law career, have you provided legal opinions or commentaries on Rome Statute provisions or other sources of international criminal or humanitarian law? Have you commented on the jurisprudence of the ICC, *ad hoc*, or special tribunals? If yes, please indicate relevant materials and publications.

Victims' rights

Victims of Rome Statute crimes are the *raison d'être* of the ICC, and they have the right to participate in proceedings and to reparations, as well as to be effectively protected.

4. Please describe your experience and/or expertise relevant to victims' rights to participate in criminal proceedings and to obtain reparations, as well as your understanding of such rights before the ICC.

In German criminal trials, victims, in particular victims of sexual violence crimes or violence crimes, have the right to participate as joint plaintiffs. The judges have to authorize the

participation on application. The joint plaintiff has a right to participate during the whole proceeding, can be - and in reality is always - represented by a lawyer, has relevant procedural rights and can appeal the decisions of the Court. Aside from participation as joint plaintiff, several specific provisions for victims exist in German criminal procedural law. Victims have the right to be informed about the result of investigations and on their additional rights outside the criminal prosecution, can inspect the files and items of evidence, can be represented by a lawyer and during testimony be accompanied by a lawyer or a psychosocial assistant.

In comparison with the reparation system of the Rome Statute, German criminal procedural law provides only for financial compensation for immaterial and material damage. Additionally, financial compensation depends on a claim of the victim in an adhesive procedure in the criminal trial.

As judge in national criminal proceedings, I have applied and apply these provisions as fact-finding instance and on the level of appeal. In German criminal proceedings dealing with violence and sexual violence crimes, the participation of victims as joint plaintiff has become usual during recent times. Adhesive procedures are also very common.

As mentioned above, in particular the reparation system of the Rome Statute differs from the system in place in Germany. The Rome Statute system provides for individual and collective reparation and is not limited to financial compensation. This is so because of the mass atrocity crimes that have been committed and the Court deals with and because of the aim to support transitional justice. Against this background and as the trials at the ICC are victim-oriented, victim's participation and their right to be heard in trial as well as the holistic reparation system are crucial for the work of the ICC.

I value this ambitious system of reparations for harm suffered. It takes into account the specific character of the elementary crimes dealt with by the Court.

5. How would you ensure victims' statutory rights to participate in proceedings and to reparations are meaningfully achieved?

I would take all measures provided for in the relevant regulations, in particular those of the Rome Statute, the Rules of Procedure and Evidence and the Regulations of the Court in order to ensure the adequate participation of victims.

Victims have access to their own legal representative in the courtroom who will present their concerns and personal interests to the Court. Before participating, victims are required to fill out an application for participation form and the Judges decide whether or not the applicant is entitled to participate in the proceedings. Victims may choose their legal representative who is required to have certain qualifications. Additionally, at the Court there is an Office of Public Counsel for Victims which can represent victims. If the number of victims is large, the Judges may request that they choose a common legal representative. At trial, a victim may decide him- or herself to testify before the Court, if called as a witness. After conviction of an accused, the victims can seek reparation for the harm they have suffered. Reparation can be claimed whether or not the victim previously participated in trial.

6. Describe any specialized training and/or experience you have in providing protection and support to victims (and witnesses) participating in judicial proceedings, including expertise in assessing harm, trauma, and the risks of re-traumatization.

I am experienced in the application of the provisions of German criminal procedural law which provide for the protection of witnesses. To protect a witness, these rules foresee the possibility to examine a witness via video-link technology while the witness is in a different room and - in exceptional circumstances - the possibility to interview a witness *in absentia* of the accused.

Additionally, for the aim of protecting children under the age of 18 and victims of sexual violence crimes, it is possible to present the testimony of the witness in trial by means of a prior recorded video of a testimony before an investigative judge during the investigations if the accused and his or her counsel had the opportunity to be present at this former examination.

In general, in trial the task of the Chamber, and in particular of the Presiding Judge, is to balance the rights of the accused and the victims. This includes in some situations protecting the victims and witnesses against verbal attacks of the defence and *vice versa* protecting the accused against possible attacks of the Prosecutor and the representative of the victims. From my perspective, a very important responsibility of the Presiding Judge is to guarantee the respectful treatment of every participant of the trial. As a former Presiding Judge at Düsseldorf Higher Regional Court, I am familiar with this situation and possible challenges.

In criminal proceedings dealing with violence crimes and sexual violence crimes, it is always necessary to assess the harm of a victim and a possible trauma because this circumstance is - pursuant to German criminal law and similar to the Rome Statute - significant for the sentencing decision.

I am familiar with the issue of risk of re-traumatization. In meetings and discussions with psychologists, in which I take part, the issue of how to protect the victims and to avoid re-traumatization during the repeated examinations before the police, the prosecutor and the court is always a crucial issue. The aim to avoid re-traumatization was also the reason for the legislator to allow for the above-mentioned presentation of prior recorded video-testimony in trial.

Defence rights

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

In my former position as a Presiding Judge at Düsseldorf Higher Regional Court and my current position as Judge at the Federal Court of Justice, my most important aim has always been to conduct fair trials.

The rights of the accused are essential for a criminal proceeding founded on the rule of law and are therefore crucial for the acceptance and recognition of the authority of the ICC. As a judge, the rights of the accused are ingrained and inherent in my judicial approach.

Aside from the recognized basic rights of a fair trial, the right to appeal, the publicity principle, the principle *nullum crimen, nulla poena sine lege*, the principle of culpability, the presumption of innocence, the principle of *ne bis in idem*, the rights of the accused include the right to be informed of the charges, to challenge detention, to have counsel, to have adequate time and facilities to prepare, to be tried without delay, to examine witnesses and to receive interpretation and translation.

High moral character, independence, and impartiality

8. Share your understanding of the “high moral character” Rome Statute requirement (article 36(3)(a)), and how you embody these characteristics. What qualities or activities would be contrary to a “high moral character”?

My understanding of the term “high moral character” is as follows: The person should consistently show integrity, objectivity and respectful treatment of others at all times. The person’s behaviour should be firmly based on the values of human rights and the individual should have a keen sense of social responsibility. A judge should be able to make decisions based on law and conscience and should have a balanced character showing steadfastness against undue influence. Additionally, he or she should be loyal towards the court within the limits of the law.

Throughout my professional career as an independent and impartial judge, I have always been aware of the importance of these characteristics and I have been strongly guided by these principles and have easily internalized these precepts.

It would be contrary to a “high moral character” to be corrupt, prejudiced and unable to judge objectively.

9. Have you ever been accused (formally or informally) of bullying, harassment, abuse of power, serious misconduct, including sexual harassment/misconduct, or unacceptable behavior? If so, please explain.

No, I have never been accused (formally or informally) of bullying, harassment, abuse of power, serious misconduct, including sexual harassment/misconduct, or unacceptable behavior.

10. What difficulties, if any, can you envisage in taking a position independent of, and possibly contrary to, the position of your state of nationality? How would you act in cases where significant (direct or indirect) political pressure was exerted upon you and/or your colleagues?

From my viewpoint, a judge is a representative of his or her country of origin’s legal system and legal culture, but must be fully independent of the government of his or her country of origin as well as of any other specific interest.

As a judge, I am used to deciding independently and impartially.

If (direct or indirect) political pressure was exerted upon myself and/or my colleagues, I would not allow this to influence my decisions. I see myself in a position to be able to address the attempted inappropriate influence directly. If necessary, I would also inform the president of the Court with the aim of communicating the situation to the Assembly of States Parties and the Member States.

- 11.** Have you ever worked in the executive or legislative branches of government in your country? If so, please provide details about the capacities in which you served, the duration of these positions, and confidentiality obligations you may have undertaken.

Between August 2006 and February 2009, as a judge at the regional court, I was seconded to the Ministry of Justice of *Land* North Rhine-Westphalia and I worked in the department "personnel and legal issues". In this position I worked as counsel of the ministry in administrative proceedings, was responsible for public liability proceedings and general issues of the judges and public officials in the area of justice of *Land* North Rhine-Westphalia.

Between April and July 1992, I worked for the Parliament of the Federal Republic of Germany (Bundestag), Bonn, in the petitions committee. I was responsible for petitions pertaining to the Ministry of Finance.

In both positions there were no specific confidentiality obligations.

Management and workplace culture

- 12.** Please describe your relevant human resources management skills and experience, including: how you managed allegations of discrimination, harassment (including sexual harassment), bullying and/or abuse of authority on the part of staff members; ways you addressed chronic imbalances in geographical representation/race and gender in senior management positions; and how you grappled with issues that disproportionately affect women, minorities, and people of color.

At the beginning of my judicial career at the regional court, I also worked part-time in the court's administration. I was the head of different departments. In this context, I headed groups of staff and received training in human resources management. I learned to lead staff units and developed the following skills: I lead by example and by placing trust in others, I accept my responsibility, I am always approachable, I can listen carefully, I am able to address inappropriate behavior without hurting others and I value a respectful treatment of others.

I apply these skills in my daily work as a judge collaborating with colleagues and our supportive staff.

Additionally, I am experienced in dealing with vulnerable groups. At the district court, I was responsible for adult guardianship law and had to decide subsequent to a hearing of the person concerned. I heard many persons in different physical and psychological conditions and I treated them respectfully and empathetically and was always able to reach them.

13. If elected, what concrete measures will you take to improve the workplace culture in the ICC's judiciary? Include examples in which you acted to improve the workplace culture.

Firstly, all Chambers should have or develop a well-functioning deliberation culture and a practice of collegiality. Since 2011, I have worked in a number of teams consisting of five professional judges and I know how valuable an open-minded working atmosphere is and how important it is to treat all members of the bench respectfully. In my recent division at the Federal Court of Justice, we have developed a functioning deliberation culture and a practice of collegiality. All colleagues meet each other at least every second week over three entire days to deliberate the recent cases on appeal. If necessary, we deliberate in addition on other days, e.g. interlocutory appeals against judicial decisions during the investigations often related to the review of detention.

Due to my experience, I am capable of contributing towards an improvement in the Court's current working environment. During deliberations, I am proactive, communicative, and I have a positive attitude with the focus on a just result. I am open to review and reconsideration if and when necessary.

I value the sharing of information and expertise among colleagues and look forward to exchanging viewpoints and ideas with judges from different backgrounds and from different legal systems. But of course, I am aware of the possibility that co-working with colleagues from different backgrounds and different legal systems can also be challenging.

With regard to bullying, harassment and in particular sexual harassment, it is necessary to set an example with one's own behaviour, to treat everybody respectfully and to make it very clear that bullying and harassment are not acceptable. It may also be necessary to address such misconduct explicitly and to inform the competent authorities (IOM) so that they can investigate. Throughout my professional career, I was sometimes confronted with difficult situations. I have learned to set limits and to address inappropriate behaviour directly.

14. Please share examples of when you applied a gender perspective during your professional career.

Firstly, I applied a gender perspective in my function as gender equality representative of the Faculty of Law, Humboldt-University in Berlin. During that time, I created and developed a plan for the promotion of women in the Faculty of Law.

My publications and legal expertise on questions of evidence gathering and evaluation in sexual violence crimes also includes the application of a gender perspective. Sexual violence crimes are in a disproportionately high number conducted to the detriment of women so that I am always aware of the particular gender relevance. As mentioned above, my research also pertains to the question of how to protect victims and other vulnerable persons during the examinations. In this respect, I also apply a gender perspective.

Sexual and gender-based crimes (SGBCs) and crimes against children

15. What do you consider are the main advancements in the Rome Statute regarding sexual and gender-based crimes and crimes against children, as well as the relevant jurisprudence and charges brought so far at the Court? Please describe challenges and opportunities for improvement in adjudicating these crimes, and any experience you may have in this area, including addressing misconceptions relating to SGBCs.

Due to the recognition that sexual violence widely occurs in armed conflicts and other macro-criminal contexts, the Rome Statute includes a wide range of sexual crimes and demonstrates a high sensitivity to gender in international criminal law. With these provisions, the Rome Statute includes a progressive legal framework on sexual and gender-based crimes and allows for an effective prosecution of these crimes.

From my perspective, the current legal framework of seven sexual and gender-based crimes against humanity and war crimes enumerated in the ICC statute (rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, any other form of sexual violence of comparable gravity, and gender-based persecution) is sufficient to legally cover all forms of conflict-related sexual violence and gender-based crimes. This is in particular so due to the catch-all crime of “any other form of sexual violence of comparable gravity” in article 7 (1) (g) and - slightly different - article 8 of the Rome-Statute.

In contrast, in the early years the ICC’s practice in the prosecution of sexual and gender-based crimes was not satisfactory. The first final conviction for sexual crimes (rape and sexual slavery) was only in March 2021 in the *Ntaganda* case. In the case against *Lubanga* the judges of the Trial Chamber themselves criticized in July 2012 the prosecutorial approach in relation to the issue of sexual violence. In comparison, the recent decisions of the ICC (cases against *Ongwen* and *Al Hasan*) demonstrate a change in attitude and demonstrate that the ICC is able to address sexual violence in an adequate manner.

From my perspective, the court’s success in prosecuting and trying conflict-related sexual violence and gender-based crimes depends on the sensitivity of its officials towards sexual-related violence and gender issues. It also depends on the prioritization of conflict-related sexual violence in the policy of the prosecutor. Against this background, the policy paper on sexual and gender-based crimes of the Office of the Prosecutor of 2014 was an important step forward to raise the awareness of conflict-related sexual violence. Furthermore, the policy paper of the Office of the Prosecutor on the crime of gender persecution of 2022 will also contribute to this aim.

Additionally, it is crucial that court officials not only receive proper resources, but also training on gender sensitivity. Correspondingly, rules 17 (2) (a) (iv), 18 (d) of the Rules of Procedure and Evidence require organs of the Court to provide training on issues of sexual violence and gender sensitivity. From my perspective, it is necessary to raise the awareness of gender-based causes for conflict-related crimes in international criminal law in particular for sexual and

gender-based crimes, so that the experience of women and other marginalized groups becomes visible.

Regarding the crimes against children, I would like to emphasize the necessity to prioritize the prosecution of these crimes because children are particularly vulnerable in conflict situations and need protection of the international community. This approach encompasses not only the specific crimes to the detriment of children (article 6 (e), 8 (2) (b) (xxvi) of the Rome Statute) but also sexual violence crimes and other crimes which often affect children in conflict situations. Against this background, and since the interpretation complies with the wording of the Rome Statute, I value the decision of the Appeals Chamber of 15 June 2017 in the *Ntaganda* case pertaining the offences of rape and sexual slavery of child soldiers as war crimes. The Appeals Chamber stated that the ICC Statute does not exclude members of an armed group from protection against acts committed by the members of the same armed group. However, I am also aware that this decision has been widely criticized with regard to its non-compliance with international humanitarian law. For the prioritization of the prosecution of crimes to the detriment of children in armed conflicts and other macro-criminal contexts, the policy paper on children of the Office of the Prosecutor of 2016 is also relevant.

Judicial training

The ICC is a unique institution and ICC judges face many distinct challenges. Even judges with significant prior experience managing complex criminal trials may not necessarily possess all requisite skills and knowledge needed to manage these challenges.

16. In this context, is there any area of your expertise, knowledge, or skillset which you think could be enhanced through workplace training? Would you make yourself available to take part in such professional training?

As mentioned before, the German criminal procedural law does not foresee a reparation system similar to the system provided for in the Rome Statute. For this reason, I am interested to receive training on the details of the reparation system and its outreach including the work of the Trust Fund for victims.

If training in general were offered to new judges, I would of course make myself available to participate.

National nomination procedure

17. What is the current national selection and nomination procedure for ICC judicial candidates in your country of nationality? Please provide information on the procedure, including the application process, criteria, rules and legislation, public outcome of the process, bodies or organs involved in the selection process, and any other relevant information.

According to article 36 (4) of the Rome Statute, nominations for the position of judge at the ICC may be made by any State Party "(i) By the procedure for the nomination of candidates for appointment to the highest judicial offices in the State in question; or (ii) By the procedure

provided for the nomination of candidates for the International Court of Justice in the Statute of that Court.”

Germany has opted for the procedure whereby candidates are nominated by the German national group in the Permanent Court of Arbitration, in accordance with article 4 (1) of the Statute of the International Court of Justice that regulates the procedure for the nomination of candidates for that Court.

The Federal Foreign Office conducted a thorough internal inter-agency process that included the Federal Ministry of Justice in order to identify the respective possible candidates that would best fulfil the prerequisites established in article 36 of the Rome Statute. The challenges currently faced by the ICC led Germany to the view that a practitioner’s longstanding courtroom experience in cases relating to transnational and international criminal law would be of crucial importance for an optimal functioning of the ICC. Germany therefore decided to present a high-ranking, experienced criminal law judge as candidate for election to the ICC. The result of the respective inter-agency process seeking candidates was shared with the German national group in the Permanent Court of Arbitration.

In April 2022, the spokesperson of the German group in the Permanent Court of Arbitration, Prof Dr Stefan Oeter, informed the German Federal Government that it had, after careful deliberation, unanimously decided to nominate me as candidate. The Federal Cabinet of Ministers approved the candidature, so that the candidature is officially endorsed at the highest level by the government of the Federal Republic of Germany.

With regard to the second procedural option for nominating candidates for election to the ICC, I would like to point out the fact that I had, as a sitting Judge at the German Federal Court of Justice, already been approved according to the national procedure that is applicable for the nomination of candidates for appointment to the highest judicial offices in Germany.