COALITION FOR THE INTERNATIONAL CRIMINAL COURT

2023 ICC Judicial Elections
Questionnaire to candidates

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Motivation

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

I had my first professional experience with international crimes as a young lawyer working for the Estonian Supreme Court. It concerned atrocity crimes committed by the representatives of the Soviet Occupation regime in Estonia both during the Second World War and after that. I was fascinated with the idea of having a possibility to prosecute grave crimes even after decades had passed, when the perpetrators had never thought that their wrongdoings could ever come to the light. So, my interest for international criminal law has its roots in Estonian historic experience with international crimes committed against our people by foreign occupation regimes during and after the Second World War.
In the same timeframe, *(as I had to deal with the Soviet Occupation regime's acts in Estonia,)* Slobodan Milošević was transferred to the custody of the ICTY in order to be tried for his alleged crimes committed during the Balkan wars in the 1990s. The fact that a (recently resigned) head of state could actually be brought to face justice was inspiring. These two factors sparked my deeper interest in international criminal law and this interest has remained ever since. Although international criminal justice has had several setbacks, I believe that the international community is moving towards accountability for grave systemic wrongdoings of the powerful of this world. I want to contribute to the materialization of this idea. Another aspect that attracts me to international criminal law, is the fact that this branch of law is dynamic and quickly evolving. Being at a juncture of criminal law and public international law, this field of law is complex and therefore intellectually intriguing.

Having had more than 20 years of experience in criminal law, including international criminal law at the national and international level, I would like to add my experience and practice to the work of the ICC, the only permanent international criminal court dealing with the most serious criminal cases of concerns to the international community as a whole. As a judge of the ICC, I would like to participate in delivering justice to many victims of atrocity crimes. My experience as a Member of the Board of Directors of the Trust Fund for Victims of the ICC would be a particular asset to the work of the ICC. My particular interest and motivation are to actively engage in developing ICC's case law and making its proceedings more efficient, effective and speedy. Public should know more about important work of the ICC, and I am willing to participate in awareness-raising about the ICC and explaining about its activities to the media and public at large. One of the challenges before the ICC is to attract a bigger number of states to accede to the Rome Statute and its amendments.

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 have worked in the field of criminal law for more than 20 years in various positions – as a legal officer, as a judge, as a prosecutor, as a university teacher and as an academic.

All in all, as a legal officer working for the Estonian Supreme Court, I was involved in around 1000 cases appealed to the Supreme Court during the period I was working at the Court. My role as a legal officer was to analyse the appeal and give a reasoned opinion on its acceptance to the panel of judges. If the appeal was accepted by the panel, I had to prepare the case for either a hearing or for written proceedings, to participate in the deliberations, to analyse specific legal issues that the panel was tasking me with and to participate in the drafting of the rulings, decisions or judgments of the panel. The offences I was dealing with were a cross section of offences adjudicated in Estonian courts.

At EULEX Kosovo, working as a legal officer at the Court of Appeals / Supreme Court of Kosovo, I dealt with around 60 criminal cases involving both international crimes (war crimes in non-international armed conflicts) and serious domestic offences (corruption, organised crime, murder etc). My concrete tasks involved preparation of the cases for hearings or written proceedings, participating in deliberations of the panel of judges and drafting of the decisions and judgments of the panel.

As a judge in Tallinn Circuit Court (an appellate court), I dealt with hundreds of criminal cases both in the role of a presiding judge and as member of the panel. The offences I was dealing with ranged from petty theft and street violence to murder and complicated fraud schemes; from drug offences to tax evasion and corruption offences.

As the Prosecutor General of Estonia, I have been involved in numerous criminal cases: 1) in the phase of assessing the potential of the material for further investigation or indictment; 2) performing certain procedural steps that can be undertaken only by Prosecutor General under Estonian Code of Criminal Procedure; 3) representing Estonia in certain aspects of mutual legal assistance with other states, amongst others specifically cooperating with Ukraine in the investigation of international crimes committed during the Russian aggression against Ukraine.

All in all, as a legal officer both in Estonia and EULEX Kosovo, I have been involved in around 10 cases of international crimes: war crimes committed against Estonian guerrilla fighters during the Second World War, crimes against humanity committed against Estonian people during the Soviet occupation regime, war crimes committed during the Kosovo conflict in 1999. As a judge of Tallinn Circuit Court, I was in the panel deciding on an appeal in a case of financing of international terrorism.

The challenges in the cases I was working with in Estonian courts, involved explanation of the issues of international criminal responsibility to Estonian judges. This was especially challenging, because at the time, there was virtually no expertise in the issues of international criminal law. Specifically, it was problematic to apply the Estonian Criminal Code, because the relevant crimes were drafted in rather vague language.

In Kosovo, the difficulties concerned the territorial and temporal applicability of the norms of IHL, the applicability of different domestic penal codes to any given situation.

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.

Partly the question is answered in Q.2. Although I have not directly referred to the Rome Statute in national criminal proceedings, I have applied the principles of the Rome Statute in legal drafting and the Rome Statute has an important place in the courses I teach. I have experience in applying customary international criminal law norms through national legislation both in the context of Estonia and Kosovo. In both of these instances, the application of law was further complicated by the fact that the countries were in transition and undergoing thorough legal reforms, which brought about the change in both substantive criminal law and procedural law after the acts had been committed, but before final decisions had been rendered in the respective criminal cases. Therefore, there was a necessity to assess the applicability of a correct domestic substantive law provision, as well as which procedure had to be applied.

Some of the most relevant cases involving international crimes, where I have drafted the final decision are the cases of Penart (judgment of the Estonian Supreme Court from 18 December 2003, case No 3-1-1-140-03), Kolk and Kislõi (Case No 1-1-44/021, on 21 April 2004, the Supreme Court of Estonia decided not to accept the appeal of the defence counsel based on my reasoned opinion), Geci et al (PAKR 966/2012, judgment of the Kosovo Court of Appeals from 11 September 2013) and Gashi (Pakr 1175/12, judgment of the Kosovo Court of Appeals from 10 February 2014), Dejanovic and Bojkovic (PaKr 503/13, judgment of the Kosovo Court of Appeals from 27 May 2014).

In addition, my work in the Board of Directors of the Trust Fund of the ICC directly involves implementation of the Rome Statute. See also Q 4.

(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.

I have experience regarding the victims' rights to obtain reparations from my current function as the board member of the Trust Fund for Victims, specifically in the ongoing reparation cases of Ntaganda and Lubanga. In the Ntaganda case, I have contributed to the development of the initial draft implementation plan with focus on priority victims. I have also contributed to the development of the strategic plan of the Trust Fund for Victims and, especially that stronger emphasis should be put on the reparation schemes within the so-called assistance mandate of the Fund.

In my current function as the Prosecutor General of Estonia, I have put efforts in strengthening the policies regarding the participation of victims in criminal proceedings, their access to relief services, assistance available to them, *etc*. For example, a state prosecutor specialised to juveniles and the treatment of victims has been appointed in the Prosecutor's Office. As another example of these efforts, I would refer to an Agreement concluded between the Prosecutor's Office and the Estonian Bar Association for engaging victims of crimes in the criminal investigation phase. I have been insisting interagency efforts for more meaningful work in advancing the rights of victims. In order to be aware of the level of Prosecutor's Office's services and of any possible shortcomings, surveys are regularly conducted to assess the level of satisfaction of victims with the services and assistance available to them during criminal proceedings. I have been calling for active outreach to victims, especially to victims of family violence and of sexual violence, where there is still work to be done in order to change attitude of ignorance in the society and to raise awareness and courage of victims to contact the authorities. I have been endorsing the methods of restorative justice introduced in the practice of the Estonian authorities in order to give a stronger voice to the victims. As a member to Estonian council of crime prevention, I have contributed to an increased attention to the assistance of victims of crimes.

In addition to the above, I have been advocating the need for increasing the role of restorative justice in my work as a lecturer of criminal law at the University of Tartu. My track-record also includes participation in the reforming of the norms against human trafficking in the Estonian Penal Code in 2012.

While being appointed as the judge in roster for the Kosovo Specialist Chambers, I actively participated in the setting out of the regulatory framework and standards for victims' participation in the Kosovo Specialist Chambers proceedings. During adoption of the Rules of Procedure and evidence at the Kosovo Specialist Chambers, I advocated for a more extensive right of the victim's counsel to present evidence during the trial than originally planned. Unfortunately, however this approach did not find support and the adopted rules on this matter resemble to the approach taken by the ICC, where the ability of the victims to present evidence is made dependent on the approval of the Panel. Although it is understandable that the Panel, amongst others, has to guarantee the expeditiousness of the trial, this should not come at the cost of the victims' rights to bring relevant evidence to the attention of the Panel. At the ICC, according to Art 68 (3) of the Rome Statute and Rule 91 (3) (b) of the RPE, the Panel is expressly obliged to consider the interests of the victim as well.

It is positive, that the Rome Statute has declared that the victims should be put in the heart of the system. when it comes to participation of victims in the ICC proceedings and reparations to the victims, both of these options are a novelty for international criminal justice. First, it is praiseworthy

that there is a regulated system to grant the victims access to the proceedings, in order to express their views and concerns, but also to be able under certain conditions to present their own evidence and actively participate in the proceedings. Second, already the mere fact that victims are explicitly entitled to get reparations for the harm suffered through the crimes committed against them or their next of kin, is a great advancement. Even more so, the Rome Statute established the Trust Fund for Victims that could step in place of the indigent perpetrators and fulfil the reparation orders in cases where the perpetrators are unable to do so. However, I think that the reparation model has not exactly worked perfectly so far. I think ICC could do better in putting more efforts to tracing the assets of the perpetrators. I think as well that, the ICC needs a solid system how to manage frozen and seized assets. The financial footing of the Trust Fund for Victims should be decisively improved, *etc*. I find it especially important, that the Trust Fund for Victims has actively undertaken to pursue both the mandate to complement court ordered reparations, but also the mandate to repair the harm suffered by the wider circle of situation victims who are not covered by the indictments framing the criminal cases that the ICC is adjudicating. This complements the picture of addressing the concerns of victims and putting them at the heart of the ICC, without a discrimination.

Alt 2 It is very positive that there is clear recognition of the rights of the victims in the Rome Statute. when it comes to its full implementation in practice, there is enough room for its improvement and these questions should be under constant attention of the ICC and its Trust Fund.

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

Partly the question is answered Q.4
As already explained, the victims should be granted access to justice and they should be assisted to gain actual participation in the proceedings. E.g., collective applications could be endorsed. As REDRESS has put it: "Because of the individualised processing requirements, victims are requested to provide an array of personal information, including information to prove their identity, information on their experience of crimes under the jurisdiction of the Court and how they suffered harm, even though they will invariably be heard through a legal representative which represents their interests collectively with the interests of other victims also being represented. Thus, there is an apparent mismatch between the typical way in which victims will ultimately participate and the information they are required to produce in order to enable them to participate."

In order to ensure the meaningful implementation of victims' rights to participate in all stages of proceedings, including reparations, potential victims should be aware of the possibility of participation in the proceedings of the ICC and have knowledge how the ICC operates. The ICC can improve the relevant information provided to victims in affected communities about their participation and possible reparations regimes, and this information should be available to the general public as well. Other possibility for improvement would be for example: in order to facilitate victims' effective access to the court and to its proceedings, the Court could assist victims by suggesting to choose a common legal representative or representatives. If the victims are unable to choose a common representative, the Court could take steps on its own motion by asking the Registry to nominate or to nominate itself a representative for the victims if it is required in the interests of justice.

At the same time, participation in the proceedings through collective representatives, can cause problems, because the needs and interests of every damaged person cannot be fully brought forward like this. Hence, it is important that the grouping of different victims takes place on and adequate basis and that inherently conflicting interests would not be put together under one representation.

The victims can claim for reparations or the Court can offer reparations on its own initiative but in practice, this process takes considerable time, and I think steps should be taken to speed up the process. I am also of the opinion, that the chambers should give more flexibility for the Trust Fund for Victims when it comes to actual implementation of the reparation orders. Very rigid control over that process is not beneficial to the victims and is unnecessary in my opinion. Furthermore, it is of utmost importance to raise the profile and visibility of the Trust Fund for Victims in order to achieve more funding to the Fund. As the Trust Fund for Victims awards the reparations to the victims instead of indigent convicted person and this seems to be the case also for some future reparation cases to come, the funding of the Fund is decisive.

At the same time, it is important not to forget that the rights of the victims cannot be exercised at the cost of reducing the rights of the defendant – due process and fair trial has to be guaranteed, and the rights of the accused as stipulated in Art 66 and 67 of the Rome Statute have to be honoured. It is essential that the defendant has the right of confrontation, even when it might be only allowed through intermediatory measures taken for the protection of vulnerable victims.

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 have got training in the field of psychology in order to better understand different types of personalities and value systems of people. I have also had some introductory training in legal psychology and forensic psychiatry. I have been going to several study visits to Children's Homes both in Estonia and abroad in order to learn how to work with sexually abused children. I have also got training in the protection of girls and women during emergency situations, and how better provide gender sensitive security and justice. And I have participated in a training specialising in the interrogation and examination of minors. Several of the trainings mentioned above have *inter alia* touched upon issues of avoiding re-traumatisation and understanding the type of harm and trauma suffered by the victim.

Defence rights

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

As a criminal judge, it was one of my inherent tasks to guarantee that the rights of the accused were explained to him or her and that these rights were observed throughout the proceedings. There were several cases in my practice, where I had to address the breaches of basic procedural rights of the accused and render decisions where appropriate remedies were provided. As examples, I could refer to cases where due to the too lengthy duration of the proceedings, as a remedy the sentences of the accused persons were mitigated or the proceedings were terminated

altogether; in another case, the accused person was acquitted mainly because the inculpatory statements of a minor witness were gathered in serious breach with the right of confrontation; in yet another case, the fairness of the trial was discredited because of the cumulative effect of several intentional breaches of defence rights and as a result of that the conviction of the perpetrator had to be quashed.

As the Prosecutor General of Estonia, I am responsible for the overall observance of the defence rights of the suspects and accused persons in the pre-trial phase of the criminal proceedings in Estonia. As the higher prosecutor, I have to resolve complaints about alleged procedural violations of other prosecutors. Such complaints often refer to misuse of power by the prosecutors, unjustified denial of taking certain procedural steps, breaches of the right to consult a defence counsel, *etc*. In certain cases, this has meant the need to use my disciplinary power over other prosecutors in Estonia. On several occasions, I have had to deal with the infringements to the presumption of innocence that grow out of media coverage of ongoing criminal investigations. The need to weigh the presumption of innocence and protection of the privacy of a suspect against the need to inform the society about pertinent aspects of ongoing investigations (*e.g.,* initiation of criminal proceedings against high profile politicians or other public figures for offences that relate to the exercise of official functions or corruption) forms a routine part of my work.

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"?

Formally speaking, my high moral character and integrity are witnessed by the fact that I have been vetted in several national and international security clearances over the years. Yet, the official vettings might not have concentrated enough on some of the aspects that are relevant to finding someone to be of "high moral character". Most notably, the vetting processes tend not to assess the attitude of a person towards others, emotional intelligence and unselfishness. I have dedicated my life to the work in the benefit of the society. I have chosen a career in the judiciary and in the prosecutors' office over a potentially much more lucrative career as a member of bar; and I have remained attached to the academia to teach further generations of lawyers because of a strong conviction that this way I can contribute to the common benefit. This should speak for my unselfishness. I have abstained from activities that could be compromising my integrity or independence or that could be seen as disgraceful. To my knowledge, there have never been any official or unofficial complaints about my misconduct from people I have been working together, teaching or together with whom I have undertaken any other continuous activities. This should speak for my respectful attitude towards others and reasonable extent of emotional intelligence so that I have been able to avoid unnecessary personal conflicts.

The qualities that would be contrary to high moral character are those that could put the reputation of a person under question. There is a multitude of such qualities: *e.g.,* unreliability, untruthfulness and dishonesty, cruelty or unscrupulousness, lack of accountability or diligence, indiscretion, hatred and discrimination, lack of fiscal responsibility, mental and emotional instability, *etc*. In order to maintain one's high moral character a person needs to abstain from activities that could be described by the characteristics listed before.

In this context, I would also like to refer to the Administrative Instruction Addressing Harassment, Including Sexual Harassment, and Abuse of Authority of 6 April 2022 (ICC/AI/2022/003). According to the Instructions, the Court has a zero-tolerance policy on discrimination, harassment, including sexual harassment, and abuse of authority. The Court will not remain silent or passive in the face of reported incidents, regardless of the offender. The Court will actively work to protect and support affected individuals and ensure appropriate accountability for prohibited conduct as defined in the Instructions (1.2). Section 2 provides definitions of harassment, sexual harassment, abuse of authority, and discrimination. Being a candidate to the post of a judge of the ICC, I fully support the Instructions and pledge to abide by them and with zero-tolerant policy of the Court.

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

No.

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?

I do not see any difficulties taking a position independent of or even contrary to the position of my country of nationality. As an experienced professional in the field of criminal law, I have ample experience in maintaining my independence also in highly complicated and politically charged situations. As a judge, I have presided over a criminal case where one of the biggest political parties in Estonia and some of its leading figures were found guilty for several criminal offences. Yet another still ongoing criminal case against the same political party and its leading figures was initiated and has been conducted during my tenure as the Prosecutor General of Estonia. The initiation of the latter criminal investigation brought to the led to the resignation of the government. There are several other examples where high-profile political figures or public officials have been adjudicated in my participation or criminal investigations have been initiated and conducted against them during my tenure as the Prosecutor General of Estonia.

I do not see myself attached to the government of my country of origin nor to any other government. Therefore, I do not see a problem maintaining my distance to the government of my state of nationality either. In fact, it is important that in the framework of the International Criminal Court the states parties themselves would consciously refrain from putting any kind of pressure on the judges of the Court when it comes to its judicial activities. This concerns *inter alia* also not putting undue financial burden on the Court – adequate resources have to be allocated for the Court. It is even more important however, that the states parties will be vigilant to notice any kind of political pressure put on the Court or individual judges by any state or other external actor and that states parties would take decisively appropriate steps to counteract to any such occurrences.

The judge of ICC should be aware that he or she could come under political pressure or attacks. In any case, the judge must respect the values of the court and fulfil one's official duties independently. The court as an institution and the judges as colleagues can offer mutual support – good collegial relations and good working atmosphere in the court is thereby of particular importance. In case where any inappropriate pressure is exercised on a judge, the Presidency and the Registrar should be instantly informed about that so that they could start taking necessary

steps to safeguard any affected judges from the impacts of the pressure and to pass the information also to the state parties. I believe it, as a rule, that instances of external pressure should be made public.

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.

I have never been working in the legislative branch. However, I have some experience with legislative process. As a legal officer at the Supreme Court of Estonia one of my tasks was to give reasoned opinions to the draft laws prepared by the government in the field of criminal law and procedure from the perspective of the court. This was a continuous task that I performed throughout my career at the Supreme Court. In one of such instances, regarding the reform of Estonian criminal law norms on human trafficking, I was also tasked to work together with the legal committee of Estonian Parliament in reaching dogmatically sound definitions and in conformity with international law of respective offences.

In 2017, when Estonia was presiding over the Council of the European Union, I volunteered to preside over a Council working party of COPEN to prepare the text of a directive combating fraud and counterfeiting of non-cash means of payment. I was presiding over the working party for a period of 6 months, doing so in parallel to my day-to-day work as a judge.

None of the above-described functions have demanded undertaking any specific confidentiality obligations.

Currently, I work as the Prosecutor General of Estonia (appointed for the period 02.2020-02.2025). In Estonia, the Prosecutor's Office is considered to be part of the executive branch. Formally, the Prosecutor's Office is positioned under the Ministry of Justice, although by law the Ministry is denied to have any control over the prosecutorial function of the Prosecutor's Office. One of the inherent tasks of the Prosecutor General is also to be actively developing criminal policy. Therefore, I have been involved in several legislative initiatives in both substantive and procedural law. There are certain work-related issues from my current position that are covered by state or foreign secrets. However, to the best of my knowledge I have no confidentiality obligations that would pertain to information relevant for the work as the judge at the ICC.

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 disproportionally affect women, minorities, and people of colour.

Currently, I am responsible for the work of Estonian prosecutor's service. The institution is around 300 people (approx. 180 prosecutors) and it is divided into 4 districts + Office of the Prosecutor General. Management of the human resources is a routine task of mine. I am *ex officio* the chairman of the prosecutorial examination committee and we are organising around 5-6

prosecutorial exams a year. It is my task to develop the human resources policies for the office, to negotiate with the Ministry of Justice the creation of new posts and the amendments to the structure of the office. It is my task to determine the salary rates for assistant prosecutors, legal officers and back-office personnel and to decide individual bonuses for the prosecutors and other personnel. Hence, I have abundant experience in the management of human resources.

Estonian Prosecutor's Office is a predominantly female organisation. Around 70% of our personnel are women (the same ratio applies to the management of the Office on all levels of management). I have no experience with grappling issues that affect minorities and people of colour, mainly because there have not been any such cases. It goes without saying that there is a zero tolerance to any misbehaviour regarding minority groups and people of colour. There have been no instances of abuse of authority or bullying, sexual harassment or discrimination recorded in Estonian Prosecutor's Office during my tenure. It has to be underlined, that there is a safe and discreet mechanism in place to inform about such issues and there is an information sheet distributed to everyone to assist in understanding instances of possible misconduct.

I have paid particular attention to encourage women to strive for the highest posts within the Public Prosecutor´s office, currently one of the two assistants to the Prosecutor General is female and all four regional Chief Prosecutors are women. Out of those 6 managing prosecutors, 3 have been appointed based on my nomination.

Estonian Prosecutor's Office has a structural issue creating chronic geographical imbalance – namely, it is difficult to find new personnel to one of the four regional districts of the Office – the Eastern District. This has historically led to discriminating salary system, where prosecutors of local origin are paid less than newly appointed prosecutors from other parts of Estonia, who as a rule have never settled in the District, but only work in the region for relatively short period. To address this injustice properly, a change to the Prosecutors Act and allocation of additional funds is necessary. I have made respective legislative proposals and proposals to allocate the funds. Further it is necessary to take more steps in order to ensure that prosecutors already working in the Eastern District are not discriminated, but that newcomers would be motivated to settle there permanently (to have apartments available for rent, to have public financial guarantee in order to be able to get hosing loans, etc).

Previously I have gained experience in the management of a small legal team from the work as an appellate judge. There, in the function of a presiding judge I had to organise the work of the panel, the recorder of the court and one or two legal officers.

All allegations of misconduct in the Public Prosecutor´s Office are thoroughly reviewed together with the Personnel Department and persons concerned have the right to give explanation and to be heard. In case of serious misconduct and serious breach of the code of ethics, disciplinary process will be initiated and person concerned may face punishment from reprimand, monetary fine to dismissal from office. Please find additional information in my answer to Q.13.

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.

Newly elected judges can indeed add positive impact to the workplace culture in the ICC, and I think they should contribute effectively. Every judge can and should set an example for his

colleagues with his or her personal behaviour and work culture. All judges have to give its best to create a professional, smooth working atmosphere, where colleagues are treated with dignity.

There is big importance on team-based work at the ICC. This has several clear implications also in regard of atmosphere and interpersonal relations. I am of the view that judges have to work together with the legal officers and back-office as an integrated team where there is an egalitarian working culture and a clear division of tasks, so that everyone understands what his or her responsibilities are. The team should get set clear goals and get feedback for their work. It is important also to keep a good emotional vibe in the team and not to build up stress, but to take measures to reduce it – not to set unrealistic expectations, to promote the culture of expressing one's views and concerns, to divide tasks fairly, to demand a fair contribution from each member of the team *etc*.

I have always treated my colleagues with respect and dignity, regardless of their position. During my tenure as the Prosecutor General, I have paid special attention to the issue of equality, so that everyone has the opportunity to realise themselves according to their abilities, and I have focused on eradicating discrimination. In Estonia, both judges and prosecutors have their own code of ethics and in both institutions, a peer-elected independent ethics-council is in place. During my tenure as Prosecutor General, the Council has not found a reason to discuss issues concerning workplace culture or discrimination. On the contrary – the anonymous surveys conducted in the Prosecutor's Office have shown a considerable increase in the satisfaction with the atmosphere in the institution.

At the Prosecutor's Office I have set up a system of safely and discreetly informing about workplace issues and introduced an information sheet how to recognise bullying, harassment or other similar misconducts.

In order to keep strong interpersonal bond within the institution I have promoted and the Prosecutor's Office is financially and otherwise supporting different team-building events and seminars. In order to help our officials to come to grips with the work-related problems and stress I have assigned funds so that the Prosecutor's Office can afford everyone of our personnel couching, professional and psychological counselling and therapy. These measures have been important to improve resilience and the ability to resist extreme stress created by the work as a prosecutor. I have called for continuously paying attention to the colleagues in order to notice stress-related issues and signs of burnout so as to be able to offer them help in dealing with such problems. All of the above-described measures have been met with acknowledgement.

There has to be zero tolerance policy against any interpersonal misconduct, but there has to be also discretion what kind of measures to take in case of misconducts of different gravity. In case of minor misconducts, I am of the view that these should be handled unofficially and with a clear view of trying to give a person a chance to understand the issue and to change his or her behaviour for the future. In case of more serious infringements, official proceedings have to be initiated decisively in order to determine whether the misconduct has occurred and the perpetrator should be punished. The same applies also to other kind of inappropriate or unethical behaviour. I have initiated several such proceedings during my tenure and four officials working at the Prosecutor's Office have been dismissed due to misconduct, unethical behaviour and abuse of their position.

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

I could refer to the following examples:

- Participating in the hiring of the executive director for the Trust Fund of Victims Secretariat in the role of the hiring manager (as the member of Board of Directors);
- Promoting male candidates to come to work as prosecutors in Estonia as the Prosecutor's Office is a predominantly female organisation;
- Finding ways to accommodate family needs of working parents –I have proposed changes to the Prosecutor's Act to officially be able to offer part time employment opportunities. The changes in the law have been designed gender neutral, in order to encourage also male colleagues to take advantage of these opportunity and to remain on paid parental leave.

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.

The ICC is paying more and more attention to SGBCs in its policy and practice. In 2019, Bosco Ntaganda was convicted of 18 counts of war crimes and crimes against humanity, including rape and sexual slavery committed against male and female civilians as well as his own child soldiers in the Democratic Republic of the Congo. The conviction was upheld on in 2021

In 2020, in Ongwen case, the ICC came to an important conclusion that a former victim could transform into a perpetrator and explained in detail the elements of a defence of mental disease. The case is also a milestone in the prosecution of sexual and gender-based crimes as international crimes. In the judgment, the distinctive elements of the crime of forced marriage and forced pregnancy are analysed.

The Policy on the Crime of Gender Persecution of 2014 and renewed in 2022 strive towards addressing sexual and gender-based crimes in the ICC in a more systematic and effective way and this work should be continued. Victims should better know their rights before the ICC, their privacy be respected in the proceedings and all steps be taken to avoid re-victimization of victims of SGBCs in their communities.

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?

Yes, I consider continuous training important and I am willing to take part in various kind of workplace trainings to improve both my general skills and legal knowledge.

Quite specifically the areas, where I would first seek training opportunities concern the specificities of the proceedings at the ICC, the use of relevant information systems and databases. I would also deem it necessary to have situation-specific trainings about the socio-economical, geopolitical, historical aspects, *etc*. regarding the countries, that are affected by the ongoing cases.

Also, it would be important to improve my knowledge of the other working language of the ICC – the French language.

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.

The Ministry of Foreign Affairs has presented detailed information to the ICC and has answered relevant questionnaire of the CICC, more detailed information is available there.

In Estonia, the selection and nomination procedure of judges to international courts is regulated in the Foreign Relations Act: https://www.riigiteataja.ee/en/eli/ee/501022017002/consolide/current

Section 9 of the Foreign Relations Act stipulates the competence of the Ministry of Foreign Affairs and its subsection 9 determines the nomination procedure to international courts. The Minister of Foreign Affairs, coordinating with the Minister of Justice and after having heard the opinion of the Chief Justice of the Supreme Court, the Chancellor of Justice and the Secretary of State, presents candidates for judges of international courts to the Government of the Republic for approval.

The Ministry of Foreign Affairs initiates the selection procedure by announcing an open competition to a position of an international judge and inviting applications through a public advertisement with broad distribution of information in the media and social media, with particular emphasis on professional media channels.

The Minister of Foreign Affairs forms a special selection panel to determine the best candidate to be presented to the Government for nomination to the international court. The selection panel consist of the Minister of Foreign Affairs, the Minister of Justice, the President of the Supreme Court, the Chancellor of Justice and the Secretary of State or representatives appointed by them. The selection panel reviews the applications received and makes a short-list of candidates who will be invited to interviews. After having heard the candidates' in-person, the panel decides on the best candidate who is presented to the Government for approval. The Government makes the final decision and approves the best candidate to the post of the international court.