

Draft Questionnaire for candidates to the 2020 ICC Judicial Election

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Nationality: COLOMBIAN

Nominating State: COLOMBIA (THE REPUBLIC OF)

Legal Background: LIST B

Gender: MALE

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BACKGROUND

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

I am motivated to seek election to the International Criminal Court (ICC) as a judge for a number of reasons. Firstly, Colombia was a founding member of the ICC in 2002, but is yet to be represented amongst its judiciary. The country has also introduced two in situ processes for special transitional justice: i) Peace and Justice with the Paramilitaries, and ii) Special Jurisdiction for Peace (JEP) following the 2016 Peace Agreement signed with the FARC. The latter is still ongoing; which is another important factor because the complementarity of the ICC remains a significant tool for this and other situations should there be incidences of no truth, justice, reparation occurring and to reinforce the importance of non-repetition of the criminal behaviours being prosecuted and judged by the internal criminal justice (regular or transitional).

Furthermore, the fact that Colombia has an open situation in the Office of the Prosecutor of the ICC is another important component, because although one does not represent their State or Government, it is nevertheless very important to have Judges from countries, legal systems and backgrounds that have first-hand experience of the realities and different situations similar or, indeed, identical to those the ICC is committed to enforcing, so as to bring an experienced, realistic and holistic focus and approach to the work of the Court.

On a personal level, my motivation arises from the fact that my professional and academic life has revolved around International Law, especially International Criminal Law. I worked for the Legal Directorate at the Colombian Ministry of Foreign Affairs, where my scope of work coincided with a number of these areas, including playing a leading role in the negotiation of treaties (E.g. Elements of Crimes of the ICC and the Cooperation for the use of jails for judged individuals) and the design of legal concepts, extraditions, privileges and immunities, *i.a.*, which provided important first-hand practical experience on these matters.

Whilst working as a lawyer in private practice, I managed the firm's International Practice, where the focus of my work was predominantly on helping individuals and companies avoid committing any (generally speaking economic) criminal offences through the implementation of Compliance Programmes.

Between 2017-2018, I was lead advisor for the investigation and subsequent presentation on the situation in Venezuela (referencing Nicolás Maduro Moros among others) to the Office of the Prosecutor at the International Criminal Court, which was supported by several members of the Colombian and Chilean Senate, led by former Senator Iván Duque, currently Colombia's President.

I have also served as an attorney for three of Bogotá's local Mayors, where I handled administrative, police and criminal offences in different districts of Colombia's capital city (2018).

Previously, I was Director of International Relations for Bogotá's Mayor's Office, representing the Colombian capital in all their international activity, including partnerships and alliances with foreign governments, and presenting different programmes and strategies related to international affairs to the National Government. I represented Bogotá before different cooperation organisations and in various social and humanitarian programmes involving migrants, victims of international crime and people trafficking (2011 – 2012).

At Colombia's Ministry of Foreign Affairs, I was responsible for preparing and issuing legal concepts on Public and International Law on behalf of the office of the Minister and Vice Ministers. I also led on international judicial cooperation and international criminal law, including assuming responsibility for extradition channels and serving as the main negotiator for various instruments for cooperation and control created with different foreign governments. At times, I was Acting Head of the International Judicial Affairs Directorate, deputising in the absence of the Director. (2010 – 2011).

I was also responsible for providing legal counsel on behalf of the Protocol Directorate at the Ministry of Foreign Affairs, as well as designing legal concepts around privileges, immunities and their relationship with Public and International Law. I managed diplomatic channels with different missions, including embassies/high commissions, international organisations, special missions and consular/commercially accredited in Colombia, liaising with the national authorities, particularly focused on judicial and administrative procedures. I negotiated relevant chapters on privileges and jurisdictional immunities in international treaties. And, again, I deputised as Head of Department in the absence of the General Director of Protocol. (2009 – 2010).

During my first period at the Ministry of Foreign Affairs, I was the lawyer charged with overseeing the processing of approved laws for treaties, treaty negotiations and providing legal and administrative representation of the organisation. As such, I was responsible for treaties on International Criminal Law, double taxation agreements,

memoranda of understanding, as well as treaties and agreements on promotion and investment protection and the wider creation of legal concepts on Public and International Law (2005 – 2006).

It is also worth mentioning that I carried out my legal internship at the Presidency of Colombia, in what was then known as their Humanitarian Affairs Office, where I was responsible for responding to petitions, verifying terms and conditions for the provision of emergency humanitarian aid, responding to lawsuits, verifying the delivery of international cooperation support and of other subsidies and services provided by the State to support displaced populations victims of the armed conflict. (2003 – 2004).

Last but not least, I have been a longstanding scholar of international law, predominately focusing on human rights and international humanitarian law for over ten years. Furthermore, my research and publications have always revolved around international criminal law, universal jurisdiction and the ICC. (2008 – 2018).

I hold two Masters Degrees: one in International Studies from the Law School of the University of Barcelona (2008), where my thesis about State Sovereignty and the ICC was marked 'outstanding', and the second in International Affairs from the Universidad Externado (a joint degree with Columbia University and SciencesPo), where my thesis explored universal jurisdiction and the principle of complementarity, this was also marked with a special mention of "excellence" (2012).

My publications and academic research have focused on the Law of Armed Conflicts, International Humanitarian Law, the International Crime of Persons Trafficking and Human Rights Law. I have also reviewed books about International Law, with further publications looking at Economic Rights, mostly Competition Law and Consumer Protection.

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

Whilst the Court has a strong reputation internationally, I would say that the delay in various cases and, on a practical level, the relatively small number of cases that are properly prosecuted in order to be judged, are areas that tend to stand out when one looks at its overall operation.

Elsewhere, there appears to be a geographical bias in so far as that the majority of cases are from Africa, and to a lesser extent the Middle East, which is another criticism that is frequently levied at the ICC, alongside the lack of cooperation within certain jurisdictions to facilitate the capture of those people who abuse their privileges, immunities or who bypass the Court's jurisdiction to avoid being brought to justice.

Looking at the Court from an outsider's perspective, I would suggest broader representation among the judges, with a view to hopefully incorporating younger, more enthusiastic candidates from around the world who can bring fresh perspectives. I'd also recommend encouraging more diverse experience that includes the likes of litigation, academia and legal consultancy, among others. A further suggestion would be that the Court pursues more judgments and convictions, particularly in the case of ongoing situations that risk breaking international law, and that it expands its focus beyond African states and post-conflict cases to also pursue international criminals whilst they are still in office.

Without a doubt, the Court has made a number of major decisions that have been very important in the international arena; however, I still believe that there is more that could be done to increase the number of prosecutions and to ensure more effective sentencing.

Furthermore, the lack of commitment from certain States with the Court and the Office of the Prosecutor can hinder its ability to conduct independent and in-depth investigations and to sanction international crime effectively.

Other obstacles for the Court include the way in which Member States are inclined to denounce the Rome Statute in order to leave the ICC, which is a major challenge that they must overcome.

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

As with any major international organisation, the ICC and Rome Statute system face a number of challenges in the coming years. One of the most fundamental of these is that the Court must find ways to strengthen and achieve a more fluid and concrete cooperation between States, international organisations and NGOs, in order to secure greater resources (including technological) and donations, *i.a.*, which is something I believe is of paramount importance for the ICC.

Another major challenge facing the ICC is that it must take decisive action in various situations around the world, such as the ongoing violations taking place in Latin America, the Middle East, Africa and Asia. This will continue to place enormous pressure not only on the Court, but also more generally on the protection of human rights and the international humanitarian legal system.

As previously stated, I also think the ICC needs to look at increasing representation amongst its judges – ideally bringing in younger, dynamic candidates from around the world, with diverse experience in areas such as litigation, academia and legal consultancy, among others, who can bring fresh perspectives. Similarly, I respectfully suggest that the Court pursues more judgments and convictions, particularly in the case of ongoing situations that risk breaking international law, and that it expands its focus beyond African states and post-conflict cases to also pursue international criminals whilst they are still in office.

In the same way, the ICC (both the Office of the Prosecutor and the Honourable Judges) should have to comply with a strict code of conduct and the most transparent and independent oversight mechanisms, in order to protect their mandate and uphold their decisions with no element of doubt about their integrity.

LEGAL SYSTEM

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

a) Which legal system is your country part of?

Civil or Continental Law.

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

I am currently Colombia's Superintendent of Industry and Commerce, a position which requires me to serve as the Colombian Competition Authority. In this capacity, I not only lead investigations, but I am also responsible for administering the consequences in the form of sanctions for any administrative or criminal malpractice that the Superintendence uncovers. Within my jurisdiction, I am able to investigate and sanction a number of different crimes, namely cartels, collusions, bid-rigging, economic, consumer and intellectual property offences, as well as contraband.

International cooperation is a cornerstone of our work, and we work alongside the Authorities that belong to the International Competition Network, as well as the OECD. We also have bilateral agreements to enforce decisions, carry out investigations, cooperate in judicial matters tackling cartels and for the detection and prevention of other crimes.

Additionally, whilst working as a lawyer in private practice, I managed the firm's International Practice, where the scope of work was predominantly focused on helping individuals and companies avoid committing any (generally speaking economic) criminal offences through the implementation of Compliance Programmes.

Finally, whilst working in the Colombian Ministry of Foreign Affairs, I was responsible for extraditions, privileges and immunities and transnational crime, which required ongoing, day-to-day cooperation with various judicial and executive authorities in other countries that operated under a range of legal systems in order to undertake the procedures, gather evidence, transfer individuals, enforce judgments, *i.a.*

LANGUAGE ABILITIES

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

a) What is your native language?

Spanish

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.

English is my second language and I have a high level of fluency (written, spoken and understanding) in my command of the language. I received bilingual education (English/Spanish) throughout my childhood and again at university and as part of my postgraduate studies. Furthermore, I have been required to work in English in a professional capacity for both for the public and private sector as a lawyer, consultant and most recently as a regulatory authority.

For example, the positions I have held at the Colombian Ministry of Foreign Affairs, as Director of International Relations for Bogotá D.C., were all bilingual roles. In my current capacity as Colombia's Superintendent of Industry and Commerce, where I am the national Competition, Data Protection, Consumer and Industrial Property Authority, I represent the country before the OECD, UNCTAD, WIPO, International Competition Network (ICN) and the International Consumer Protection and Enforcement Network (ICPEN), among others all of which require a high level of fluency in English.

I have also been called upon to advise numerous clients and law firms using English as part of my private practice working in International Private Law, dispute settlement, *i.a.*

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?

My current knowledge of French is basic, tourist level. However, as a Latin-based language, there are a number of parallels with Spanish, which helps with general understanding. I am also working to study and improve my French as a third language.

LIST A OR B CRITERIA

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

a) For **List B** candidates:

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

1. I would describe my competence in criminal law and procedure as good. I am currently Colombia's Superintendent of Industry and Commerce, a position which requires me to serve as the Colombian Competition Authority. In that capacity, I not

only lead investigations, but I am also responsible for administering the consequences in the form of sanctions for any administrative or criminal malpractice that we uncover. Within my jurisdiction, I am able to investigate and sanction a number of different crimes, namely cartels, collusions, bid-rigging, economic, consumer and intellectual property offences, as well as contraband.

Additionally, whilst working as a lawyer in private practice, I managed the firm's International Practice, where the scope of work was predominantly focused on helping individuals and companies avoid committing any (generally speaking economic) criminal offences through the implementation of Compliance Programmes.

- How would you describe your experience in criminal proceedings?

At Colombia's Ministry of Foreign Affairs, I was responsible for preparing and issuing legal concepts on Public and International Law on behalf of the office of the Minister and Vice Ministers. I also led on international judicial cooperation and international criminal law, including assuming responsibility for extradition channels and serving as the main negotiator for various instruments for cooperation and control created with different foreign governments. At times, I was Acting Head of the International Judicial Affairs Directorate, deputising in the absence of the Director.

I have significant experience in this area, having served as lead counsel, deputy counsel, legal representative, legal advisor, and public servant in charge of legal and judiciary representation. I have experience both as an authority, investigator, counsel, and attorney in matters related to international law, both as plaintiff and defendant across the public and private sectors.

OTHER EXPERTISE AND EXPERIENCE

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

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

I am fortunate that my work experience to-date has meant that I have encountered a number of challenging situations, as well as being exposed to the different transitional justice systems that have been introduced in Colombia. Additionally, I have received both academic and professional training in criminal matters, procedure, human rights and other disciplines that have served to support me in academic and practical situations whilst serving as lead counsel, deputy counsel, legal representative, legal advisor, and public servant in charge of legal and judiciary representation.

I have professional experience both as an authority, investigator, counsel, and attorney in matters related to international law, both as plaintiff and defendant.

Currently, I am Colombia's Superintendent of Industry and Commerce, a position which requires me to serve as the Colombian Competition Authority. In that capacity, I not only lead highly complex investigations, but I am also responsible for administering the consequences in the form of sanctions for any administrative or criminal malpractice that we uncover. Within my jurisdiction, I am able to investigate and sanction a number of different crimes, namely cartels, collusions, bid-rigging, economic, consumer and intellectual property offences, as well as contraband. The backdrop to these cases is almost always incredibly complicated, sometimes with a global reach and I am required to operate with the utmost integrity and professionalism.

Previously, whilst working at Colombia's Ministry of Foreign Affairs, I led on international judicial cooperation and international criminal law, including assuming responsibility for extradition channels and serving as the main negotiator for different instruments for cooperation and control created with different foreign governments. At times, I was Acting Head of the International Judicial Affairs Directorate, deputising in the absence of the Director. Additionally, I have acquired expertise by working in the Legal Directorate of the Colombian Ministry of Foreign, where I was required to lead on the negotiation, overseeing and enforcement of treaties on international crimes, international judicial cooperation, imprisonment, extraditions, privileges and immunities, *i.a.*, which gives me a practical background on these highly complex matters.

That said, I firmly believe that there is always room to learn more and to expand one's experiences. I am currently studying very closely the transitional justice systems that are being introduced in Colombia with a view to gaining an improved understanding of how these can be successfully implemented to ensure adequate representation and reparations for victims and with the utmost legality.

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

Between 2017-2018, I was lead advisor for the investigation and subsequent presentation on the situation in Venezuela (referencing Nicolás Maduro Moros among others) to the Office of the Prosecutor at the International Criminal Court, which was supported by several members of the Colombian and Chilean Senate, led by former Senator Iván Duque, currently Colombia's President. As part of the presentation, I was required to study/analyse the situation in Venezuela, clearly detailing where International Law was being broken.

When it comes to legal expertise in other relevant areas, as previously detailed, I have significant experience having served as lead counsel, deputy counsel, legal representative, legal advisor, and public servant in charge of legal and judiciary

representation. I have experience both as an authority, investigator, counsel, and attorney in matters related to international law, both as plaintiff and defendant.

At Colombia's Ministry of Foreign Affairs, I was responsible for international judicial cooperation and international criminal law, including assuming responsibility for extradition channels, which required a detailed working knowledge of the disclosure of evidence and the management of complex cases with a global reach.

I was also responsible for providing legal counsel on behalf of the Protocol Directorate, as well as designing legal concepts around privileges, immunities and their relationship with Public and International Law. I managed diplomatic channels with different missions, including embassies/high commissions, international organisations, special missions and consular/commercially accredited in Colombia, liaising with the national authorities, particularly focused on judicial and administrative procedures, which, again, required in-depth working knowledge of the presentation of evidence and the diplomatic management of often very complicated situations.

I carried out my legal internship at the Presidency of Colombia, in what was known as their Humanitarian Affairs Office at the time, where I was responsible for responding to petitions, verifying terms and conditions for the provision of emergency humanitarian aid, responding to lawsuits, verifying the delivery of international cooperation support and of other subsidies and services provided by the State to support displaced populations victims of the armed conflict. Here there were many incidences related to mass crime and other highly complex criminal cases.

And, to conclude, in my current capacity as Colombia's Superintendent of Industry and Commerce, I not only lead investigations, but I am also responsible for administering the consequences in the form of sanctions for any administrative or criminal malpractice that we uncover. Within my jurisdiction, I am able to investigate and sanction a number of different crimes, namely cartels, collusions, bid-rigging, economic, consumer and intellectual property offences, as well as contraband. Many of these are highly complex criminal cases that require cooperation with other national and international organisations.

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

I believe that being a Latin American (Colombian) professional, whose formative years were spent during some of the most challenging for Colombia, has given me a unique perspective and a number of important, first-hand, real-life experiences.

Colombia is a country that has faced enormous conflict – and continues to face challenges that it needs to overcome in order to secure greater peace and stability. My own personal experiences growing up there, coupled with my studies and professional background leads me to believe that I could help to clarify or at least

contribute ensuring balance and perspective within the Court. I am fortunate that my 'domestic' experiences at a national level in Colombia are complemented by time spent abroad, which provides an important international dimension and perspectives. I strive to ensure a balanced, holistic approach between the professional, academic and personal, which I hope allows me to objectively assess the life and equilibrium in countries during their most challenging times.

There is no doubt that my first-hand experience of the education and justice systems in a country such as Colombia, including working in advocacy and enforcement *i.a.* has been formative and provides a level of competence, comprehension and perspectives that are perhaps hard to achieve in other backgrounds and "realities".

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

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

I served as Bogotá's Director of International Relations, I represented Bogotá before different cooperation organisations and in various social and humanitarian programmes involving migrants, victims of international crime and people trafficking. There was always a focus on SGBCs, given the high incidences of femicide and the sex trafficking of, predominantly, women and minors. Bogotá is also home to the majority of Colombia's displaced communities, where additional human rights crimes – SGBCs – are prevalent.

Whilst serving as Bogotá's Delegate District Attorney for Security and Cohabitation (Ombudsman), I was in charge of guaranteeing the protection of human rights in all activities as the official representative of the district's Public Ministry. The work here had a focus on SGBCs, due to the fact that many victims are either women, single-parent families or minors.

I have also served as an attorney for three of Bogotá's local Mayors, where I handled administrative, police and criminal offenses in different districts of Colombia's capital city. In large part, the cases I was required to work on were focused on sex trafficking and prostitution, including the exploitation of women, minors, migrant workers and the LGBTQIA community.

It is also worth mentioning that I carried out my legal internship at the Presidency of Colombia, in what was known as their Humanitarian Affairs Office at the time, where I was responsible for responding to petitions, verifying terms and conditions for the provision of emergency humanitarian aid, responding to lawsuits, verifying the delivery of international cooperation support and of other subsidies and services provided by the State to support displaced populations victims of the armed conflict. Inevitably, amidst the various crimes committed as part of the armed conflict, there were high incidences of SGBCs including the forced recruitment of minors, gender-

based violence including femicides and the exploitation of forcibly displaced and migrant communities including people trafficking, prostitution and other offences.

EXPERIENCE AND PERSPECTIVE RELATED TO CRIMES AGAINST CHILDREN

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

As per my previous response, my work as as Bogotá's Delegate District Attorney for Security and Cohabitation (Ombudsman), as attorney for three of Bogotá's local Mayors and with the Colombian Presidency's Humanitarian Affairs Office has required me to work across various social and humanitarian programmes, working closely with migrants, displaced communities, victims of international crime and people trafficking, amongst other areas. Unfortunately in these cases there are always high incidences of crimes against or affecting minors: as victims of internal displacement, as victims of people trafficking, including sex trafficking and being forcibly recruited to work in prostitution, as victims of criminal offenses within their households (abuse, or exploitation to be used as tools for committing crimes due to the absence of criminal responsibility), amongst others.

EXPERIENCE AND PERSPECTIVE RELATED TO VICTIMS

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

Between 2017-2018, I was lead advisor for the investigation and subsequent presentation on the situation in Venezuela (referencing Nicolás Maduro Moros among others) to the Office of the Prosecutor at the International Criminal Court, which was supported by several members of the Colombian and Chilean Senate, led by former Senator Iván Duque, currently Colombia's President.

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

I handle collaboration and leniency programmes in my current position as Colombia's Superintendent of Industry and Commerce. I have also handled warranties and human rights protection in extraditions, and asylum and refugee processes in my work for, and before, the Colombian Ministry of Foreign Affairs.

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

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

I handle collaboration, leniency and compliance programmes in my current position as Colombia's Superintendent of Industry and Commerce. Whilst serving as Bogotá's Delegate District Attorney for Security and Cohabitation (Ombudsman), I was in charge of guaranteeing the protection of human rights in all activities as the official representative of the district's Public Ministry.

I have also served as an attorney for three of Bogotá's local Mayors, where I handled administrative, police and criminal offenses in different districts of Colombia's capital city.

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 significant experience in this area, having served as lead counsel, deputy counsel, legal representative, legal advisor, and public servant in charge of legal and judiciary representation. I have experience both as an authority, investigator, counsel, and attorney in matters related to international law, both as plaintiff and defendant.

I carried out my legal internship at the Presidency of Colombia, in what was then known as their Humanitarian Affairs Office, where I was responsible for responding to petitions, verifying terms and conditions for the provision of emergency humanitarian aid, responding to lawsuits, verifying the delivery of international cooperation support and of other subsidies and services provided by the State to support displaced populations victims of the armed conflict. This required continual liaison with international human rights bodies/NGOs, international stakeholders and other organisations.

I represented the City of Bogotá (Colombia's capital city) before different national and international cooperation organisations and in various social and humanitarian programmes involving migrants, victims of international crime and people trafficking.

I am a member of the Colombian Academy of International Law (ACCOLDI), where we intervene in constitutional procedures. I am also a member of the International Bar Association (IBA) where I'm a part of the human rights chapter, I am also the Secretary General of the Colombian Jurists Bar (*Colegio Colombiano de Juristas*).

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

I have referred to and/or applied specific provisions of international human rights and/or international humanitarian law treaties on several occasions in my capacity as serving as lead counsel, deputy counsel, legal representative, legal advisor, and public servant in charge of legal and judiciary representation. I have experience both as an authority, investigator, counsel, and attorney in matters related to international law, both as plaintiff and defendant. Furthermore, in my work with the Colombian Ministry of Foreign Affairs, we were required to ensure compliance with international human rights and the relevant treaties – and my work was focused on the negotiation of treaties, amongst other responsibilities.

In various roles with the Bogotá DC Mayor's Office, for three local Bogotá Mayors and for the Colombian Presidency Humanitarian Affairs Office, I was required to refer and comply with such laws and treaties, which were instrumental in my representation of asylum seekers and refugees.

I have also presented a case to the Office of the Prosecutor of the ICC regarding the situation in Venezuela, as previously detailed, alongside the Colombian and Chilean Senators, which required detailed knowledge, understanding, reference and application of laws and treaties related to international human rights law and of course the Rome Statute.

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.

As per my previous response, I was a leading figure within the delegation that included a number of Colombian and Chilean Senators that presented a case regarding the situation in Venezuela to the ICC's Office of the Prosecutor, which is still pending trial before the Court.

EXPERIENCE AND PERSPECTIVE RELATED TO GENDER MAINSTREAMING

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

I perceive gender to be a transversal consideration across almost all aspects of my work. I endeavour to be mindful when it comes to applying gender perspectives in both the professional and personal spheres, striving for fair and equal representation.

Additionally, in the course of my career – and as previously detailed in other answers – I have been required to focus on gender against the backdrop of SGBCs. Whilst serving as Bogotá’s Director of International Relations, I represented Bogotá before different cooperation organisations and in various social and humanitarian programmes involving migrants, victims of international crime and people trafficking, where there was often a focus on gender.

Then, whilst serving as Bogotá’s Delegate District Attorney for Security and Cohabitation (Ombudsman), I was in charge of guaranteeing the protection of human rights in all activities as the official representative of the district’s Public Ministry, where again there was an emphasis on gender and campaigning for improved equality. Similarly, in my work as an attorney for three different Local Mayors in Bogotá, gender was a transversal theme across much of our work and many of our investigations were, unfortunately, focused on gender-based violence.

Again, at the Presidency of Colombia, in what was known as their Humanitarian Affairs Office at the time, I was responsible for responding to petitions, verifying terms and conditions for the provision of emergency humanitarian aid, responding to lawsuits, verifying the delivery of international cooperation support and of other subsidies and services provided by the State to support displaced populations victims of the armed conflict, where gender was another leitmotif throughout so many of the cases we saw.

CRITERIA OF HIGH MORAL CHARACTER, INDEPENDENCE, IMPARTIALITY AND INTEGRITY

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

The ICC (both the Office of the Prosecutor and the Honourable Judges) should be obliged to comply with a strict code of conduct and the most transparent and independent oversight mechanisms, in order to protect their mandate and uphold their decisions with no element of doubt about their integrity.

Not disclosing conflicts of interest or hiding information are contrary to high moral character. I believe that recusal should only take place when a Judge has a conflict of interest, when they have made or stated an opinion that could jeopardise the case, when their previous actions regarding an investigation or case, whether in a national or international court, or their ties to a specific individual or situation might harm the final ruling or taint the impartiality of the process or decision.

For me, an independent Judge is one whose only obligation is to administer justice, someone who speaks through their decisions, upholds the law and complies with the rule of law. An independent Judge is someone who behaves professionally, ethically,

respects the law and due process, contributes to the work and wellbeing of their court and colleagues.

Throughout my career, I have remained wholeheartedly committed to working with the utmost professionalism, integrity and with “high moral character”.

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

No.

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

a) What is your opinion on this expectation?

I believe that whilst it is important not to exercise any form of discrimination in determining the eligibility of Judges to serve the Court, one also needs to ensure diversity and representation. When it comes to the appointed Judge ruling on cases, then these factors should not bias their decisions and any potential conflicts of interest related to these areas should be declared to the Court. It is important to remember that a Judge must comply with the requisites stated within the Rome Statute and the requisites of their own jurisdiction to administer justice.

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.

22. Are you aware of any formal allegations made about you related to professional misconduct, including allegations of sexual harassment, discrimination, or bullying, or any investigations regarding your alleged professional misconduct related to the same? If so, please explain.

As a public servant, especially one that judges, enforces, investigates and sanctions, I often face allegations and complaints from sanctioned parties seeking revenge, retaliation and a means of evading the payment of the sanction.

To-date, I have never been sanctioned as a result of these allegations or complaints but following due process, investigations have been opened. Specifically, I recently levied sanctions in a case involving criminals that formed a cartel to illegally resale football tickets. The case in question was part of a worldwide criminal case known as FIFAGATE, regarding incidences of corruption and criminal offenses during the

2018 World Cup. Recently, I sanctioned the Colombian Football Federation and several individuals who are currently criminally prosecuted both in Colombia and the United States.

I would like to make it very clear that there has not been a ruling or sanction against me in any criminal, disciplinary or administrative court in Colombia or elsewhere.

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

No.

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

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

I have clearly stated in previous responses that I have presented situations before the Office of the Prosecutor (Venezuela, Nicolás Maduro Moros and others), and that I am currently Colombia's Superintendent of Industry and Commerce, that's to say the National Competition, Data Protection and Consumer Protection Authority. This makes me a member of the Executive Branch, whereby I was appointed by the President following a nomination and public process to compete for the fixed-term, four-year position (2018 – 2022).

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

For me, an independent Judge is one whose only obligation is to administer justice, someone who speaks through their decisions, upholds the law and complies with the rule of law. An independent Judge is someone who behaves professionally, ethically, respects the law and due process, contributes to the work and wellbeing of their court and colleagues.

As previously stated, it is important to alert the Court should any potential conflict of interest arise, and anything relevant that might affect the decision, or the Court should be raised prior to any judgement. These conflicts of interest might be familial or professional ties, or wider affiliations, to cases, suspects, or individuals being prosecuted by the Court. This should include any cases or situations previously known or referred to, whether as an advisor or official, in any other country or organisation (public and private), or indeed other situations that if not disclosed to the Court in a timely manner might taint the process and final ruling.

The relationship between a Judge and the authorities of their country should be one of mutual respect and cooperation, but ultimately it is imperative that there is a clear

distancing when it comes to cases and decisions. The Judge needs to operate with neutrality and an open mind, discussing their decisions and abandoning any prejudices and preconceptions at the door to their Court. At no point should a Judge be advancing their home country's national political or judicial agenda, nor should it play any part in the undertaking of their work or affect their rulings.

In the same way, any relationship between an ICC judge and other stakeholders in a case (from academia, NGO's or other international organizations and jurisdictions, among others) should be of mutual respect, fruitful cooperation and mutual understanding, but always with a clear distance between their substantive and judicial duties and wider academic or cooperation agendas.

Judges speak throughout their rulings. Therefore, political pressure, as well as the Judge's own views, should be kept away so that the decision is based on facts and evidence. In the same way, political and international pressure should not interfere with the work of the Court: a clear distinction should be made between the administration of the Court and the Court's administration of justice.

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

Professionally and personally I strive to create environments that are completely free from any bullying, harassment or other harmful behaviours.

From an early stage in my career, I have been responsible for managing personnel, both in the public and private sectors. I am currently leading Colombia's Superintendence of Industry and Commerce, which has 1800 employees nationwide. Our work in this area has been recognised, with the Superintendence awarded the title of a "Great Place to Work", and also as a Responsible Family Environment (EFR in Spanish). Alongside our work promoting a positive, safe and happy working environment, we have also introduced policies to ensure that should any harmful behaviours take place, there are safe and secure reporting channels and due processes in place for these situations to be carefully managed. It is a matter that I take very seriously, and in my capacity leading the organisation, I take a personal interest in ensuring that our working environments across the country are safe and secure for all employees.

Previously, whilst serving as Bogotá's Delegate District Attorney for Security and Cohabitation (Ombudsman), I was in charge of guaranteeing the protection of human rights with a particular focus on school bullying. As part of my work here, I drafted and implemented a plan to protect minors throughout the city's public school system. This was a highly beneficial piece of work and one which has subsequently proven useful, because in my current position as Colombia's Data Protection Authority, I have been very active in protecting minors from cyberbullying and other harmful behaviours in social media.

OTHER MATTERS

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

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

Yes.

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

I am very accustomed to working under pressure. In previous positions, as well as in my current role as Colombia's sole competition authority (amongst other responsibilities), I have to address the public on various occasions, hold press conferences and interviews, attend congressional hearings, appear before the Courts, and make other appearances due to my public role. I investigate and sanction a wide range of misdemeanours and I am the primary spokesperson for my Authority. I am also frequently called upon to represent the Superintendence of Industry and Commerce, and Colombia, before major international organisations such as the OECD, UNCTAD, WIPO, International Competition Network (ICN) and the International Consumer Protection and Enforcement Network (ICPEN), among others. Whilst one always tailors their way of working around the new working environment, I cannot think of any particular adaptations that would need to be made.

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

I believe that it is imperative for victims, both individuals and organisations, to appear before the Court during all hearings and for the final ruling. If elected, I would look to ensure plural participation of victims and for them to play an active role in cases. Furthermore, I believe that it is very important for victims to have the opportunity to effectively challenge appeals and appear before the Chamber, and for them to be granted reparations if determined in a ruling. Reflecting on a previous question, another obstacle in the operation of the Court and the effectiveness of its rulings, is ensuring adequate reparations for the victims, which is why assets from the accused and other suspects have to be seized in due time, preventatively, prior to the final ruling, to ensure that assets aren't dispensed with during the trial and that there are sufficient funds to compensate victims as required.

My own country, Colombia, has taught me this: there is no point in a great ruling without any effective symbolic or economic reparation for the victims. There are no

first- or second-class victims or cases, they all have the same right to justice, and in my mind, justice includes effective reparations and the guarantee of no repetition.

ABG
28/09/2020