

Questionnaire for candidates to the 2020 Election of the ICC Prosecutor

Civil society¹ plays an important role in monitoring the election of International Criminal Court (ICC) officials. We promote fair, merit-based, and transparent elections.

Please answer the questions below. These questions are aimed at complementing questions posed during the public hearings held with candidates on 9 - 10 December 2020.

Name: **Francesco Lo Voi**

Date: **December 12th, 2020.**

COMMITMENT AND VISION

1. What vision will animate the work of the ICC Office of the Prosecutor (OTP), if you are elected Prosecutor?

I would like to see a well structured as well as flexible Office, ready to face challenges and criticism. The credibility of the OTP needs to be increased, particularly in the situation countries, where the cooperation with civil society organization will be crucial also in this respect. The Rome Statute has to be the cornerstone of the OTP's activity; ICC is often, for many people (particularly victims of horrible crimes), the last possibility: we cannot fail in letting people use it.

2. How will you define the Court's legacy in situations where investigations are undertaken? How will you achieve that legacy?

The past experience has not been always successful. Investigation have to be opened considering the rules of the Rome Statute and when there is a reasonable possibility of success. The quality of investigation has to be improved: an acquittal is a damage for the entire system and in such cases we (OTP) should ask ourselves if it was our fault in carrying out investigation or preparing the trial.

3. What is your assessment of the resources available to the Court? If you are elected Prosecutor, how will you achieve the Court's mandate in light of available resources?

It's a widespread opinion that limited resources affect the work of ICC and particularly OTP, as it was recognized also by the recent IER report. The subsequent recommendations of the report have to thoroughly considered, but also in this case priorities have to be selected, according to the available budget, to address the most important issues.

¹ This questionnaire is endorsed by the following organizations: African Center for Democracy and Human Rights Studies, UNA Sweden, Alhaq, ALTSEAN-Burma, Amnesty International, Asian Legal Resource Centre, The Australian Centre for International Justice, Colombian Commission of Jurist, Congo Peace Initiative, FIDH, Georgian Coalition for the International Criminal Court Human Rights Watch, Justice International, Nigerian Coalition for the ICC, No Peace Without Justice, Odhikar, Open Society Justice Initiative, Parliamentarians for Global Action, REDRESS, Reporters sans frontiers, StoptheDrugWar.org, The Swedish Foundation for Human Rights, World Citizen Foundation, Women's Initiatives for Gender Justice, World Federalist Movement/Institute for Global Policy, and the World Renewers Organization. This questionnaire was developed with the assistance of the Coalition for the International Criminal Court Secretariat.

PRELIMINARY EXAMINATIONS, INVESTIGATIONS AND PROSECUTIONS

4. What do you believe are the main challenges facing the OTP in terms of:

a. preliminary examinations;

Timing of PEs has to be reduced substantially, also to avoid deterioration of evidences. The assessment on the admissibility of a case has to be transparent and consistent. No political or other instrumental reasons can have space; independence and impartiality of the OTP have to be preserved and clearly shown.

b. investigations; and

As I said, the quality of investigation has to be improved, also with the use of the most modern investigative techniques and a close contact with the situation countries' population and independent organizations. Also in this respect, the duration of an investigation has to be one of the essential elements to be considered.

c. prosecutions?

The principle of a fair trial is a rule of civilization, before a legal rule. Therefore, protection of victims and witnesses and prompt disclosure of all the evidentiary elements to all the involved parties.

How would you overcome them? Please, see above.

5. Please describe your vision for addressing misconceptions related to sexual and gender-based violence that might impede the investigation and prosecution of SGBCs.

SGBCs often accompany the crimes listed in the Rome Statute. They cannot be considered "minor" offences, because their gravity is fully comparable with the other crimes and they are often the "indicator lamp" of crimes against humanity and war crimes. In my experience, investigating SGBCs can reveal other most serious crimes; obviously, full protection of the victims have to be guaranteed.

6. Please describe your experience in addressing crimes against and affecting children and related issues, including dealing with child witnesses.

During my service at Eurojust I was appointed as Contact Point for Child Protection, thus confronting myself with worldwide investigations concerning crimes against children, investigative methods and techniques, raising awareness of national authorities to fight such phenomenon. As Chief of PPO in Palermo (my current position), I set up a specific Department for crimes against "vulnerable victims", primarily children (and women), with the creation of specific protocols for investigation, protected rooms for hearing children with the assistance of qualified psychologists and specialized police forces.

7. The 2016 OTP Policy Paper on case selection and prioritization lays down several areas of serious crimes under national law which the OTP will take into consideration when investigating core crimes under the Rome Statute. These include the illegal exploitation of natural resources, arms trafficking, human trafficking, terrorism, financial crimes, land grabbing or the destruction of the environment. Could you please provide an example of your experience in any of these areas?

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The Prosecutor's Office I lead is very committed in fighting environmental crimes (in all its forms). Great results have been achieved in fighting THB organizations, getting a high number of severe convictions (also to life imprisonment) which have been recognized by the UNODC General Director and by the OTP Prosecutor. Trafficking of weapons and financial crimes are some of the most common crimes committed by "Cosa Nostra" (mafia association) and I daily work on them. Also investigation on terrorism are within our competence and, as an example, we are currently cooperating with French authorities after the terrorist attack in Nice. In addition, my office is currently conducting, in close cooperation with the OTP of the ICC, several investigations into the smuggling of migrants between Libya and Italy that have led to the detection of serious crimes against women and children, victims of abuse and torture.

8. To date, the crime against humanity of enforced disappearance has not been charged. Are there aspects of the Rome Statute, including crimes within its jurisdiction, that you consider have been underutilized and would form part of the Office's prosecutorial strategies, if elected?

Enforced disappearance is often the consequence of war crimes or other crimes against humanity. The same nature of this crime makes it difficult to find a sufficient level of evidences, but this require more attention and specialization to fight it. The improvement of the quality of investigation I would like to achieve could be of help in this respect.

9. Under the Rome Statute, the Prosecutor has unilateral authority to investigate offences against the administration of justice (Article 70 cases). As Prosecutor, what policy considerations would guide your implementation of the Article 70 mandate in a clear and consistent manner?

Apart from the cases in which Art. 70(4) apply, offences against administration of justice require a prioritization, because they affect the credibility of the justice system and of the ICC. As Prosecutor, I would create a specialized Unit for investigating and prosecuting such crimes, that should include – if possible – also at least one of the Prosecutors who follow the case the crime has been committed.

COMMUNICATION AND OUTREACH

10. The ICC's work is of concern globally and to multiple audiences.
- What experience do you have in prioritizing and successfully conveying key yet complex information to different audiences? Please provide specific examples.
 - What kind of communications strategies and tools will you put in place as Prosecutor?

In my national legal system, the Chief Prosecutor is the only responsible for communication, particularly with the press; he/she can delegate some specific tasks to one of his Deputies and be assisted by him/her.

The IER recognized that the PIU should be strengthened, according to the available resources. Apart from the periodic different reports, new forms of communication should be envisaged: not only press releases or website announcements, but also specific press conferences on sensitive issues. More in particular, the communication addressed to the situation countries should be improved, to raise awareness and to get the confidence of populations thereof.

VICTIMS AND AFFECTED COMMUNITIES

11. Please describe your vision of the prosecution's role in supporting the rights of victims in ICC proceedings as per the Rome Statute.

The best way to support the rights of victims is to carry out proper and effective investigation, protecting their personal integrity and health, guaranteeing their presence during the trial phase. Furthermore, contacts for improve and speed up procedures for reparation and compensation have to improved, to facilitate the use of the TFV.

12. How will you pursue accountability for those crimes that have a particularly serious impact on future generations of affected communities?

With the same effectiveness and commitment I already described. On my view, all the international crimes under the jurisdiction of the ICC have, directly or indirectly, a great impact on future generations (just think at war crimes and crimes who also indirectly affect the environment).

13. How do you view the OTP's relationship with affected communities? How would you seek to maximize the impact of the Office's work and that of the Court more broadly for affected communities?

OTP's mandate is to carry out investigation and prosecutions independently and fairly. The Court's mandate is to judge. Both mandates might be used for raising awareness in the affected communities about the gravity of the crimes committed, to create a new culture to prevent new crimes, to increase the presence of neighboring countries and int'l organization in assisting underprivileged populations.

DEFENCE RIGHTS

14. Please describe your experiences in ensuring the rights of the accused to a fair and impartial trial.

In my long carrier as Prosecutor at all levels of jurisdiction (first instance Courts, Court of Appeal, Supreme Court), I always respected the rights of the accused person(s) and their counsels. I never got any complaint for misconduct. The principle of a fair and impartial trial is laid down in the Italian Constitution. My national law provides the obligation for the Prosecutor to research also exculpatory or mitigation evidences; this has always been done by me, providing soon all such elements to the defense counsels.

IMPARTIALITY, INDEPENDENCE, AND COOPERATION

15. How have you demonstrated your ability to carry out previous mandates with independence and impartiality? Please provide specific examples.

Independence and impartiality of the Prosecution is another Constitutional rule in my national system. This means no unjustified contacts with politics, suspects or any environment that can create even the suspect of non-impartiality. I have prosecuted several high level officials in different sectors of the public administration as well as politicians, getting their conviction. As a single example, I am personally following a case in which a former Minister of Home Affairs has been indicted; the preliminary hearing (equivalent to the "confirmation of charges") will take place in the next days.

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16. How will you act in cases where significant political or other external pressure is exerted upon you and the Office you lead?

Political and external pressure is often exerted towards the justice systems and particularly Prosecutors, almost everywhere. The right answer, on my opinion, lays on the seriousness of the work and in the shown independence and consistency of the activity and decisions. In the most serious cases, I would find correct to officially inform the ASP.

17. How will you secure cooperation in the arrest of individuals wanted by the Court?

Arrests mostly depend on the national authorities of the involved countries. I have an extensive experience in tracking (and arresting) fugitives, also abroad. In this field, the OTP could improve its capability, creating *ad hoc* teams of investigators; furthermore, if the individual is localized, proper contacts with respective national authorities should be taken, also with the support of international organizations and the civil society.

HIGH MORAL CHARACTER

18. Are you aware of any formal allegations made against 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.

No. My high moral character has been also recognized by the CEP, in the recently issued appraisal. I have always had excellent relations with all the staff members I've worked with, and contacts with many of them still continue after many years.

19. Are you aware of any formal allegations made about you related to financial mismanagement or fraud? If so, please explain.

Absolutely no.

LEADERSHIP AND MANAGEMENT

20. How would you describe your leadership style? Please describe a situation where you have demonstrated this in your work.

I think my leadership style is soft and firm. I always listen other people's opinion before deciding. In my current position, I share the most important organizational decision concerning my office with my Deputies (7), also listening colleagues or staff members which can be affect by the decision. Over the last six years, all my organizational decisions (including directives and guidelines) have been approved unanimously by my colleagues without any complaint.

21. How would you describe your management style and experience, including your approach to decision making, delegation of authority, and accountability? Please describe a management challenge, and how you addressed it.

I have already expressed my views in the answer to the above question. My Deputies are in charge – upon my delegation – of different sectors of the office and refer to me about the most delicate and sensitive issues and cases.

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A great management challenge derived from the Covid-19 pandemic, unfortunately still ongoing. Daily decisions had to be taken in these last months about the reorganization of the office, particularly when it comes to organization of smart working, duty turns of prosecutors for their presence to the hearings and for other urgent activities, purchase of protection devices, protection of the personal health of staff members, directives for the access to the office of external people, and so on. It has been a very challenging period, that I could face in full agreement and cooperation with my Administrative Director.

22. Diversity is critical to the success of the ICC. Please explain how diversity has played a role in your past and present professional activities, community engagement, and your lived experience.

Diversity has been something I have faced in different periods of my career. The membership in collegial bodies (Italian High Council for the Judiciary, Eurojust) led me to a continuous exchange of views and opinions with other people, also with different national cultures, legal traditions, experiences. In all the missions I have made abroad, I always tried to establish common point of views, so facilitating the judicial cooperation processes. Direct contacts with civil society representatives – that often are present in our domestic trials – allowed a better knowledge of the needs thereof.

OTP OFFICE CULTURE

23. What is your assessment of the current working culture within the OTP and what measures would you take to improve it?

The working culture of the OTP needs to be revised, as it has already stressed also in the IER report. A full gender balance has to be reached, not only in terms of “numbers”, but particularly in terms of quality, so assigning women to higher position and subsequent responsibility. This would result also in the reduction – and hopefully elimination – of any kind of discrimination, bullying and harassment. If elected, my full commitment will be in this respect and with this goal.

24. How would you address any issues that disproportionately affect women or minorities and people of colour? Please describe a situation where you have demonstrated this in your work to date.

Three out of seven of my Deputies are women; the majority of the Prosecutors in my Office are women. As I said before (see above answer), I am accustomed to live and work in multicultural and multi-ethnic environment. This result in my view of absolute parity of genders, races or color. Probably, since my opinion on this matter is well shown in any situation, I had not the need to intervene to solve any issue related to this matter.

Thank you.

Thank you very much for your attention.