

**COALITION FOR THE INTERNATIONAL CRIMINAL COURT
QUESTIONNAIRE FOR ICC JUDICIAL CANDIDATES
NOVEMBER 2013 ELECTIONS**

Conscious of the restrictions placed upon of ICC judges in making extra-curial comments which might affect the independence referred to in Article 40 of the Rome Statute and Rule 34 of the Rules of Procedure and Evidence, we invite judicial candidates to please reply to the following questions as comprehensively or concisely as possible.

Name: Dr. Leslie Van Rompaey

Nationality: Uruguayan

Nominating State: Uruguay

List: (tick one by clicking twice on a box and selecting "Checked")

A

B

Background:

1. Why do you wish to be elected a judge of the ICC?

After thirty-seven (37) years serving as the Judiciary in Uruguay, I consider to be elected as a judge of the ICC a culmination of my career. Also in that position, I would contribute to the punishment of crimes against humanity, as I have done so in Uruguay.

2. What do you think would be the biggest challenges you would face if you were elected as an ICC judge?

I believe that the biggest challenge would be to improve the efficiency of the Court's judicial procedures. Another challenge would be enhancing the credibility and the international image of the ICC, as well as, strengthening the cooperation from the international community.

3. What do you believe are some of the major challenges currently facing the Court? What do you believe will be some of the major challenges in the coming years?

Nowadays, the main challenges are the situation with the African countries, the effective cooperation from the State Parties with the ICC and the reparations of victims.

One of the major challenges in the coming years would be to achieve universality of the Rome's Statute, to be successful in the punishment of crimes against humanity and to prevent its commission.

**COALITION FOR THE INTERNATIONAL CRIMINAL COURT
QUESTIONNAIRE FOR ICC JUDICIAL CANDIDATES
NOVEMBER 2013 ELECTIONS**

Nomination Process:

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

The basic requirements to join the Juridical power as a judge is to hold a Law degree. To be nominated for membership of the Supreme Court of Justice in Uruguay, it is necessary to perform in the functions as a Judge for a certain number of years. In practice, candidates generally have a minimal of 25 years of experience. The Supreme Court of Justice has 5 permanent members that hold their position for a maximum period of 10 years, with a mandatory retirement age of 70 years.

In my case I joined the Judiciary from the lower levels, and I advanced through until I reached the Supreme Court:

May 1975: Joined the judiciary as Justice of the Peace.

April 1977: Promoted to Judge of the Court of First Instance.

April 1980: Promoted to Investigating Judge of Montevideo.

August 1986: Promoted to Justice of the Court of Appeals.

February 2002: Appointed Justice of the Supreme Court.

2004–2005 and 2011–2012: Chief Justice of the Supreme Court

The designation of each member of the Supreme Court of Justice (Article 236 of the Constitution), is determined by decision of the Parliament by a qualified majority (2/3). Article 235 of the National Constitution stipulates a secondary possibility for assignment to the Supreme Court. Any individual that has worked as a lawyer for at least ten (10) years can be appointed by the Parliament. This faculty has been exercised by the country's Legislative Branch only once (1907).

5. Article 36 of the Rome Statute provides for two possible nomination procedures. Please describe in detail the procedure under which you were nominated. Please also provide any relevant information such as the national law governing the procedure for the nomination of candidates to the highest judicial office in the nominating state (an Article 36(4)(a)(i) nomination) or the nominating letter from the Permanent Court of Arbitration national group (an Article 36(4)(a)(ii) nomination).

This candidature satisfies the provisions of Article 36, paragraph 3 (b) (i) (list A). It is the result of a rigorous selection process, regulated by Act 18.026, which involves the

**COALITION FOR THE INTERNATIONAL CRIMINAL COURT
QUESTIONNAIRE FOR ICC JUDICIAL CANDIDATES
NOVEMBER 2013 ELECTIONS**

Legislative, Executive, Judicial Branches and the civil society of Uruguay. This complex mechanism of selection ended on 3rd of October, 2013, in which the Parliament convened for this special purpose, reached a decision through simple majority, expressing its preference for my candidacy, among others, to the ICC.

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

Yes.

Legal System and Language Abilities:

7. a) Which legal system does your country belong to?

Uruguay has a civil law system.

b) Do you have knowledge or experience working in other legal systems?

In 1989, I was invited by the US Department of State to visit several courts, where I learned the procedures of the common law system. That experience gave me an invaluable vision of this system in each jurisdiction: civil, criminal, juvenile and even small claims courts.

c) What difficulties do you envision encountering working with judges from other legal systems? How would you resolve such difficulties?

The main difficulty of working with judges of different legal systems originates on the quite distinct views regarding law, in its source, scope, sanctions and function; that cause practical implications in the development of the procedures.

The only way to solve it is through dialogue among the judges, preceded by strong commitment to find solutions in good faith.

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

a) What is your knowledge and fluency in English, if it is not your native language? Do you have experience working in English?

I came from a multilingual family, so I was raised listening to several languages.

I finished my English studies at the Proficiency level.

I am fluent in English. I do not have extensive working experience in this language.

b) What is your knowledge and fluency in French, if it is not your native language? Do you have experience working in French?

I have a basic knowledge of French.

**COALITION FOR THE INTERNATIONAL CRIMINAL COURT
QUESTIONNAIRE FOR ICC JUDICIAL CANDIDATES
NOVEMBER 2013 ELECTIONS**

List A or B Criteria:

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

9. a) For List A candidates:

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

Throughout my career as a judge and as a member of the Supreme Court, I have participated in numerous opportunities in criminal procedures.

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

During my term as a judge of the Supreme Court, I reinforced my commitment with criminal proceedings and I presided over several cases involving human rights violation, juveniles, sexual and gender based violence.

I was an independent and impartial judge, defending human rights from abuses of power, during all my career.

b) For List B candidates:

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

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

Expertise and Experience:

10. Please describe your qualifications for this position. Please also 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 can summarize my qualifications for this position by the transcendental changes undergone by the jurisprudence of the Supreme Court of Justice of Uruguay during the time I served in that body. It declared the unconstitutionality of what was known as the Law on the Expiry of the Punitive Claims of the State, which enshrined the legal impediment for bringing to trial

**COALITION FOR THE INTERNATIONAL CRIMINAL COURT
QUESTIONNAIRE FOR ICC JUDICIAL CANDIDATES
NOVEMBER 2013 ELECTIONS**

those members of the armed forces who had been indicted for violations of human rights during the military dictatorship in Uruguay, in the 1973-1985 period.

As a member of the Supreme Court, I participated in several international conferences, where I deepened my knowledge in comparative law and international justice.

Do you have legal expertise in relevant areas such as the crimes over which the Court has jurisdiction; the management of complex criminal and mass crimes cases; or the disclosure of evidence?

I have experience dealing with mass crimes and complex criminal cases, as the enforced disappearance of persons. Those criminal acts were executed during the dictatorship, which took place in Uruguay in the seventies. As a judge and member of the Supreme Court, I was directly involved in the investigation and the conviction of those crimes.

11. The ICC is a unique institution, and judges serving on the court will inevitably face a number of unprecedented challenges (including managing a regime of victims' participation and protecting witnesses in situations of ongoing conflict). Even judges with significant prior experience managing complex criminal trials may not necessarily possess requisite skills and knowledge needed to manage these challenges.

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

Yes.

b) Do you consider such training to be important?

Yes, it would be very useful because it would help to solve the difficulties that the judges of the ICC actually have in the decision-making process.

12. Historically, many of the grave abuses suffered by women in situations of armed conflict have been marginalised or overlooked.

a) Please describe any expertise and/or experience you may have in dealing with crimes of sexual and/or gender based violence.

As stated previously, constantly during my career I was involved in several proceedings concerning human rights violation, hearings over juveniles, and criminal cases involving sexual - and - gender based violence.

**COALITION FOR THE INTERNATIONAL CRIMINAL COURT
QUESTIONNAIRE FOR ICC JUDICIAL CANDIDATES
NOVEMBER 2013 ELECTIONS**

b) Are there situations or cases in the past where you believe you have applied a gender perspective, i.e. inquired into the ways in which men and women were differently impacted? If so, to what effect?

As a judge, I have always tried to protect the rights of the weak and vulnerable persons, specially in which women were involved.

13. Victims have a recognised right to participate in ICC proceedings and to apply for reparations under Article 75 of the Rome Statute. Please describe any experience that you have, which would be relevant to these provisions.

The experience during my career allowed me to participate in several cases involved reparation. I consider that this experience will facilitate to elaborate and apply the principles, including the article 75 of the Rome's Statute.

14. Under Article 68(3) of the Rome Statute, victims are entitled to present their views and concerns and have them considered at stages of the proceedings to be determined by the Court and in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.

a) Please describe any experience you may have that would make you particularly sensitive/understanding to the participation of victims in the courtroom?

Pursuant to Uruguayan legislation, the victims have an active participation in the judicial procedures, so I have wide experience in this area as a judge. According to my extensive judicial career, it is difficult to me to describe only one experience.

b) Do you have any experience in balancing victims' participation with the rights of the accused to due process and a fair and impartial trial? If so, please describe.

I am used to balance victims' participation with the rights of the accused, because the judicial process in Uruguay guarantee a balance between them. So for me, it is not a problem.

15. In your view, what are the strengths and weaknesses of victims' participation before international criminal and human rights bodies?

In my view, victims have a fundamental role in the procedures in order to achieve justice. As a weakness, I see that this participation is very financially demanding, so it is imperative to find an effective method to organize the presence of victims in order to avoid monetary constrains.

**COALITION FOR THE INTERNATIONAL CRIMINAL COURT
QUESTIONNAIRE FOR ICC JUDICIAL CANDIDATES
NOVEMBER 2013 ELECTIONS**

16. Do you have any experience in working with or within international human rights bodies or courts? Please describe.

Yes, I have experience in the Inter-American system, specially in the Inter-American Court of Human Rights, where I used to received inquiries from other judges.

17. Have you advocated for the adoption and/or implementation of human rights or international humanitarian law treaties or other instruments? Please describe your experience.

Yes, as my CV demonstrates I participated in several events, organized by the Inter-American Court, in which the adoption of several international treaties regarding human rights were promoted.

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

Yes, as a member of the Supreme Court in several decisions, I applied provisions of international human rights treaties; such as the Universal Declaration of Human Rights, the American Convention of Human Rights, the Convention on the Rights of the Child, inter alia.

19. 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? If so please describe the context in which you did.

No.

20. Have you ever referred to or applied the jurisprudence of the ICC, *ad hoc*, or special tribunals? If so, please describe the context.

No.

21. Have you served on the staff or board of directors of human rights or international humanitarian law organisations? Please describe your experience.

No, as a judge I was inhibited to participate in them. As I am retired, I am capable of doing so now.

**COALITION FOR THE INTERNATIONAL CRIMINAL COURT
QUESTIONNAIRE FOR ICC JUDICIAL CANDIDATES
NOVEMBER 2013 ELECTIONS**

22. a) Please provide us with a list of and/or links to your writings and opinions relevant to evaluating your experience.

Please note that the following publications are only available in Spanish:

- Alcance del deber de Averiguación de la verdad de los hechos alegados por las partes en el C.G.P. (Art. 25.2)” (“Scope of duty in ascertaining the truth of the facts pleaded by the parties in the G.P.C. (Art. 25.2)”), *Judicatura*, No. 29.
- “El Derecho y la Justicia” (“Law and Justice”), *Revista de la Universidad de Montevideo* No. 8, 2005.
- *Revista de Derecho III*, U.C.U.D.A.L, published his presentation about “El Terrorismo como violación grave de los Derechos Humanos y la conveniencia de que exista una jurisdicción internacional en la materia” (“Terrorism as a gross violation of Human Rights and the desirability of international jurisdiction over the matter”).
- Contributed to the book “La ciencia del derecho procesal constitucional” (“Constitutional procedural law as a science”). Studies in honor of Héctor Fix-Zamudio, Volume III: “La justicia constitucional en el Uruguay. Coordinación de los principios de separación de poderes y sometimiento de toda la normativa a la Constitución” (“Constitutional justice in Uruguay. Coordination of the principle of separation of powers and submission of all legislation to the Constitution”).

b) Please provide us with an electronic copy of and/or links to any writing or opinion describing your experience as outlined in questions 1a), 1b) and 5.

- “El Derecho y la Justicia” (“Law and Justice”), *Revista de la Universidad de Montevideo* No. 8, 2005:
<http://revistaderecho.um.edu.uy/wp-content/uploads/2012/10/DERECHO-81.pdf>
- *Revista de Derecho III*, U.C.U.D.A.L; “Terrorism as a gross violation of Human Rights and the desirability of international jurisdiction over the matter”:
<http://www.ucu.edu.uy/Facultades/RD/revista3.htm>

**COALITION FOR THE INTERNATIONAL CRIMINAL COURT
QUESTIONNAIRE FOR ICC JUDICIAL CANDIDATES
NOVEMBER 2013 ELECTIONS**

c) Is there any other information in the public domain that would support your candidacy or provide additional evidence of your qualification as a judge at the ICC?

My candidacy was proposed by the Supreme Court and the Executive Branch of Uruguay, and I was selected by a qualified majority of the Parliament. I understand this is a singular procedure and was applied for the very first time in the history of Uruguay.

This transparent process was covered by national press, and no negative opinions were pronounced.

Other matters:

23. 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.

24. Have you ever been found by a governmental, legal or professional body to have discriminated against or harassed an individual on the grounds of actual or perceived age, race, creed, colour, gender, sexual orientation, religion, national origin, disability, marital status, socioeconomic status, alienage or citizenship status, or any other grounds of discrimination? If yes, please describe the circumstances.

No.

25. 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, colour, gender, sexual orientation, religion, national origin, disability, marital status, socioeconomic status, alienage or citizenship status and shall require staff, Court officials and others subject to his or her direction and control to refrain from such words or conduct.

a) Do you disagree or have difficulty with this expectation?

I totally agree.

**COALITION FOR THE INTERNATIONAL CRIMINAL COURT
QUESTIONNAIRE FOR ICC JUDICIAL CANDIDATES
NOVEMBER 2013 ELECTIONS**

b) Please provide any relevant information regarding your ability to meet this expectation.

My experience as a judge during thirty-seven (37) years without any observation, is a proof of this circumstance.

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

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

No, I do not expect any difficulties in taking a position on any matter independent of, and possibly contrary to, my government.

Furthermore, during my judicial career, I frequently sentenced in different subject against the interest of my State.

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

Yes, I can participate in a judicial decision involving a matter in which the Uruguayan government has an interest, and I can assure that I will conduct myself in the highest standards of impartiality and neutrality. However, in the event that my impartiality is doubted on any reasonable ground, I am ready to excuse myself.

27. The Rome Statute requires that judges elected to the Court 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. In addition, a judge is expected to be on the bench or otherwise handle legal matters for at least seven hours per day, five days per week, and at times a judge's responsibilities may require him or her to be on the bench or at work into the evenings and on weekends. It may also include working on more than one case at a time and for Pre-Trial Division and Trial Division judges, the possibility of temporary attachment to the opposite Division.

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

Yes. I will be ready to start almost immediately.

**COALITION FOR THE INTERNATIONAL CRIMINAL COURT
QUESTIONNAIRE FOR ICC JUDICIAL CANDIDATES
NOVEMBER 2013 ELECTIONS**

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

Yes. I am in good health, I play sports and always, during my career, I normally experienced long working days.

28. If there are any questions you wish were asked in this questionnaire but were not, or if there are any matters that you otherwise wish to bring to the attention of the Coalition in this questionnaire, please feel free to address them here.

I wished you had asked me about the strengths and weaknesses of the Uruguayan judicial system.

Also, I would like to express that I am proud to having served as a judge all my life, and if I have to choose a profession again, I would make the same election.

Thank you for completing this questionnaire.