

Coalition for the International Criminal Court
Questionnaire to Candidates for the Position of Registrar of the
International Criminal Court

Conscious of the critical importance of the Registrar of the ICC role, we have prepared the following as a Questionnaire for candidates for this position.

Please reply to some or all the following questions as comprehensively or concisely as you wish

Name: **Giancarlo Roberto BELLELLI**

Nationality: **Italian**

Vision for the ICC and Registry:

1. What is your vision for the ICC and how would your leadership of the Registry contribute to that vision for the Court?

The ICC is a permanent international organization, with a judicial mandate for the fight against impunity of those responsible for the most serious crimes of international concern. Such mandate is intended to contribute to the efforts of the international community for the maintenance of international peace and security, and has to be implemented in the framework of the shared responsibilities established under the Rome Statute system. In this regard, while the primary responsibility for the exercise of the jurisdiction in the subject matter rests with States, the complementary role of the ICC would ensure that inability or unwillingness to investigate and prosecute does not result in impunity for the perpetrators of statutory crimes. The role of victims in the judicial proceedings, both at the national and international level, is recognized as an essential element for addressing not only their rights to reparations, but also for reconciliation and social stability, as well as for humanitarian reasons. It is also worth noting that the ICC is a complex organization, handling matters that at a national level would either not normally be dealt with by a Court (e.g., OPCV, OPCD), or that would rather fall within the competencies of several administrations (e.g., Justice, Interior, Foreign Affairs).

My vision of the ICC would require that the Registrar, as the principal administrative officer of the Court, focuses on keeping the Organization up and running, providing the services required for the expeditious and effective discharge of the judicial mandate of the Court and, in doing so, optimizes the use of the available resources. The success of the Court depends to a large extent, on the one hand, on the cooperation provided by the international community and, on the other hand, on how the role and the work of the ICC is perceived by the

different stakeholders. Consequently, under the authority of the President and with the guidance of the Presidency, the Registrar should also contribute to an appropriate and effective communication and outreach strategy, which could facilitate not only an understanding of the mission of the Court but, in particular, the advantages for external actors to support its activities and the building of expectations within the boundaries of the legal framework and of the resources available to the ICC.

2. How would you evaluate the performance of the ICC Registry to date?

From the viewpoint of an external observer, the ICC Registry has over the last 10 years achieved its assigned objectives of establishing the services required for a running permanent organization, while it continues to struggle with the level of resources.

3. What are its principal achievements and how would you build on them? What do you believe are some of the current challenges the Registry faces and how would you address them?

Achievements

The Registry has affirmed itself through good practices in consultative processes with the stakeholders, and the efforts to revisit some policies have become more visible in recent times, as the increasing professionalism of staff has enhanced the reliability of the Organ. As a Registrar, I would put a particular emphasis on increasing mutual understanding with the stakeholders and other external actors, through a transparent, informed dialogue based on facts and on an agreed and institutional narrative.

Challenges

Under the present international financial circumstances, resources are expected to continue to put a strain on the implementation of the mandate of the ICC. The future Registrar would need to work on optimizing existing resources, and on focusing their use for the services required in the judicial proceedings. Further, although overall statistics on cooperation are good, there is an objective need for additional tailor-made efforts for enhancing the responsiveness to the requests for cooperation, a driving factor to achieving the objectives of the ICC. Victims participation remains a bottleneck for courtroom activities, and the Registrar should contribute to evolving policies which reflect both the essential role of victims under the Rome Statute and the efficient conduct of proceedings. In this regard, the Registry could also provide, under the authority of the President and the guidance of the Presidency, any appropriate input for the lessons learnt exercise. The most important asset for the ICC is represented by its own staff, and its professionalism can be assumed as a basis for measuring the success of the Court. Leading by example and providing a strong motivation to staff would be important factors in addressing human resources, together with ensuring a merit based system. In this latter regard: appropriate levels of experience in a judicial

organization should be fully considered as part of the recruitment process; monitoring and evaluation of performances should be enhanced, based on objective indicators and results; verifiable expertise developed at the service of the Court should be rewarded and retained, in particular with career incentives in crucial areas, such as in Chambers, where staff attrition may result in loss of valuable resources. Other measures would also include a more flexible use of resources and, whenever possible, their pooling.

Qualifications and experience in court administration:

4. Article 43 of the Rome Statute states that the Registrar shall be a person of high moral character, be highly competent and have an excellent knowledge of and be fluent in at least one of the working languages of the ICC (French and English). Please describe briefly how you meet these criteria.

For objective elements to assess whether the requisite qualifications and requirements for the position of Registrar at the ICC are possessed, please refer to the CV. The information sought in question 4, can be summarized as follows:

High moral character

I have always been working as a national civil servant, in the capacity of a Government official, a Judge, and a Prosecutor. In the public service in general and, in particular in court-related positions, scrutiny of the moral character is a requisite element in the recruitment or appointment, and for any career developments. The seniority achieved and the absence of any disciplinary prejudice are *per se* clear indicators in that respect.

Highly competent

The CV reflects the wide range of expertise possessed and the requisite level for the ICC Registrar, in all the relevant areas: management, organization, administration, budget and finance, strategic abilities, legal expertise, external relations and diplomacy, communication and technology.

Linguistic skills

Both English and French have been the working languages in my daily oral and written communication, in the last 15 years. Inter alia, the list of publications attached to my CV and the number of contributions to the work of International Organizations (in particular, ICC-ASP and PCA, but also in the UN, EU and Council of Europe) are objective evidence of the required level of knowledge of the official languages of the Court.

5. All Court officials must perform their functions with full independence and should not act under the instruction of any country or external actor. How would you ensure independence in the functioning of the Registry?

Throughout 20 years of active service as a Judge and a Prosecutor, the impartial performance of my duties was safeguarded by the provisions on the full independence of the judicial and prosecutorial functions under the Italian Constitution. As a Judge or a Prosecutor is only subject to the law, the basic criterion for the scrutiny of my performance was independence. My career provides objective evidence of the positive evaluation based on this criterion. In all other working positions, either at the service of the Government or in temporary consultancy relationship with International Organizations, independence and loyal service have remained a basic requirements. Furthermore, relationships with fellow judges and prosecutors, at an equal, higher or lower level, have always required full respect for the mutual independence of roles and functions.

The external independence of the Registry should be protected through the establishment and maintenance of clear, unambiguous and professional relationships with external actors, be them States, International Organizations or other actors. In order to achieve that, the functions of the Registry within the ICC should be properly communicated, and an open dialogue and mutual respect for the different roles of the Parties involved should be driving the implementation of such relationships.

6. Please describe any specific expertise of relevance to the work of the ICC you may have, including, but not limited to, gender equality and violence against women or children.

The following experience of over 29 years of professional activities is relevant to the work of the ICC:

(a) Judicial and Prosecutorial experience.

In different positions, I have been dealing exclusively with criminal cases, including with the most serious crimes and in cases of extraordinary complexity, both for the accused (status or number) and the charges (e.g., Mafia-type organized crime, murder, financial crimes, fraud, war crimes). Cases of violence against women and children were also occasionally dealt with. Court management and case management was a qualifying part of this experience, as well as it was sentence enforcement, penitentiary administration, witness relocation and protection, recovery of assets, legal aid, handling of victims application for participation and reparation. Other tasks which would be normally performed by a Registrar at the ICC were also normally dealt with, e.g., management of staff, budget and finance, administrative instructions, procurement, and IT. Team work, coordination with other judicial and investigative Authorities, as well as judicial cooperation and assistance with foreign national jurisdictions also characterized this experience. The legal framework applied included substantive and procedural criminal law, administrative law, penitentiary law, Court's Regulations, and Ministerial Instructions and Directions, as well as public international law and human rights law and standards;

(b) Management and Administration.

Besides a higher education which included public management and administration, in different judicial and prosecutorial positions I have been responsible for my immediate office, for the whole Tribunal, and for specific projects requiring the use of important external resources. Organization of the office, procurement, asset management, staff management, budget preparation and implementation, oversight on services, have all been part of my daily tasks as a judge and as a prosecutor. On specific projects, important fund raising was also personally carried out and supplementary teams hired and coordinated. As Chair of the Oversight Committee on the ICC Permanent Premises (OC), oversight on the project's objectives, resources and risk management: the strategies proposed to and adopted by the OC have substantially contributed to the current compliance of the project with its assigned time and functionality objectives, and to achieving a cost forecast well below budget;

(c) Budget and Finance.

Background of junior Auditor for the multi-billion budgets of a large national administration (Defense); career long responsibility for the implementation of progressively reduced resources; as President of a Tribunal, responsible for the preparation of the budget and its implementation, as well as for fund raising; as Chair of the Working Group on the Financial Regulation and Rules (FRR) of the Permanent Court of Arbitration (PCA), I drafted a modern legal framework for a reputed International Organization, largely based on the ICC-FRR; as Chair of the PCA's Budget Committee, oversight on budget and finance; as Chair of the Oversight Committee on the ICC Permanent Premises, oversight on the preparation and implementation of its budget and on the management of the project, preparing strategies which have so far resulted in substantial savings (project below budget), and interaction with the Committee on Budget and Finance, and with the auditing bodies;

(d) International Criminal Justice.

Since 1997 and as delegate for the Italian Government, I have been part of the process of establishing and providing institutional support to the ICC. This has included an active role in the adoption of the Rome Statute, in the Preparatory Commission, in the Assembly of States Parties and its subsidiary bodies (Hague Working Group and Study Group on Governance, as well as Oversight Committee), in a number of ICC related official and informal conferences, workshops and other meetings, as well as in the COJUR-ICC.

My CV provides an overview of this expertise, and the attached list of publications includes an analysis of the lessons learned by the international and mixed jurisdictions in the fight against impunity, which was also the theme of a major Conference organized in 2007 (see below, No. 23).

(e) External Relations and Diplomacy.

Throughout my judicial and prosecutorial career I was responsible for the external relations of my office: communication, contacts and meetings with other Authorities, both at the national and international level. These included high level

and political relationships (e.g., Ministries; Parliamentary Committees; Governors, Presidents, Mayors of the Region, Province, and Town), as well as technical level contacts (e.g., judicial cooperation and mutual legal assistance, witness protection, penitentiary matters, coordination of investigations).

Diplomatic skills have been developed over 15 years, now. As expert for international criminal law and justice, my extensive involvement in the activities of the Legal Department of the Ministry of Foreign Affairs of Italy included negotiations of a number of important international instruments and other agreements in the field, in the ICC, ICTY, UN, EU and Council of Europe fora. Relevant to such expertise are also the functions carried out for the institutional support of International Organizations (ICC and PCA), or in a consultancy capacity (UNICRI, UNODC).

Management experience:

7. The Registrar will manage a large number of staff, divided into various units, sections and field offices, dealing with a broad range of responsibilities. How would you describe your management abilities and experience, and how are those qualities relevant to the management of the ICC Registry?

Please, refer to 6(a), (b) and (e), above.

Relationships with offices responsible for all the functions carried out by a judicial institution, as well as for the other functions related to the latter (e.g., treasury and finance, penitentiary, witness protection, security) have been part of my daily working activities. As a manager and, in particular, a President of a Tribunal, I have been used to respect the competencies of other managers and of the offices, to delegate functions, to ensure that the workload is appropriately shared, and that staff is utilized depending on their ability to more significantly contribute to the objectives of the Organization.

8. Please describe your experience preparing and being responsible for a large budget. Have you had experience in working with results based budgeting systems?

What strategies would you undertake in relation to the preparation, submission and examination of the ICC budget to ensure support by the Committee on Budget and Finance and states parties?

Please, refer to 6(c), above.

In the Oversight Committee for the ICC permanent premises and since 2005, I have been dealing with a €190 million budget, based on results which are verified at each stage of the project and, within a stage and based on my strategic approach, also periodically checked against the expected impact on the overall budget level and against the budget available for each of the stages.

The Registry should continue a policy of preparing realistic budgets, which has proven successful for the 2013 financial period, and strive to achieve additional efficiencies in the allocation of resources and through its policies, including in the asset management and replacement. Focus and priorities should fully take into account the expected judicial activities. Also, transparent and reliable budget assumptions are a crucial component of efforts to build mutual trust, while the budget should be presented as early as practicable to the CBF and to States Parties, and the Registrar should commit himself to an enhanced communication in the budget presentation and examination, both officially and informally.

9. Recognizing the current budget pressures on the growing Court represents a significant challenge for the institution. As Registrar how will you respond to this situation and ensure that the Court is adequately funded?

See 8, above.

Furthermore, completions strategies should accompany the different stages of each situation, so that resources are allocated where they are more needed.

10. The Registrar oversees the staff recruitment for the Court, based on principles of qualification, geographical representation and gender balance. What strategies would you employ to effectively manage the human resources of the ICC, including hiring, retaining highly qualified staff and ensuring their satisfactory performance?

Please, see 3 (“Challenges”), above.

Challenges for the ICC:

11. One of the core challenges identified for the Court is obtaining a positive response to its requests for cooperation with the Court. Given that the Registrar is responsible for disseminating cooperation requests, what are the challenges you see currently for states parties to abide cooperation requests? How would you address those challenges?

Please, see 1 and 3 (“Challenges”), above.

Different factors hinder a fullest response to the requests of the Court for cooperation. Some of these are of a political character (internal or international politics, attached to peace and security), others are rather of an operational nature (difficulty to track down fugitives or their assets), or of a technical one. The latter can be more easily addressed within the remits of the ICC Registrar, by providing requested States with timely requests, and with information which is specific, complete, and suitable to be processed in their national legal system. Efforts by the Registrar to overcome both political and operational challenges for cooperation should include appropriate communication with relevant actors, under the authority and in consultation with the President of the Court.

Relations with stakeholders:

12. Article 112(2)(b) of the Rome Statute indicates that the ASP provides management oversight of the Registrar. Additionally, the Registrar shall exercise her or his functions under the authority of the President of the Court, how would you describe the relationship between the Registrar and the ASP, as well as the President? How would you describe the relationship between the Registrar and the Office of the Prosecutor and Chambers?

The Registrar is responsible for the non-judicial aspects of the administration of the Court and, in this regard, he or she is independent from the ASP. However, the Registrar remains bound by the policy objectives established by the ASP, and subject to its management oversight. The independence of the Registry and the oversight of the Assembly have to be implemented so that the Registrar remains responsible for identifying the most appropriate means for achieving the assigned results, and that he or she can be held accountable before the ASP for such results.

As the principal administrative officer of the Court, the Registrar should be able to ensure a smooth administration of the Court in all its non-judicial aspects, and that his or her management of the Registry does not require the actual involvement of the Presidency, while following any guidance received on major issues. As the Registrar exercises his or her functions under the authority of the President of the Court, all activities of the Registry are subject to the ultimate authority of the President, and the Registrar is bound to comply with the instructions of the President and the Presidency.

The Prosecutor is independent in the administration and management of her Office, but has to rely on the services of the Registry, unless it deems this might not be appropriate. On matters of mutual concern, the Registrar and the Prosecutor should coordinate themselves and seek to achieve consensus.

In the relationship with the Chambers, the Registrar has to provide the services needed for the judicial activities.

13. The Registrar has a special mandate vis-à-vis the outreach activities of the Court, especially as regards victims and affected communities. Please elaborate on any experience relevant to fulfilling this mandate as well as your philosophy regarding the role of the ICC field presence.

During my judicial and prosecutorial career, contacts with victims were an important element for ensuring their active participation into proceedings, both as witnesses and for their application as a *partie civile*, including for purposes of protective measures and reparation. In a number of cases, including in war crime cases, contacts with victims included legal representatives of groups or associations of victims, as well as representatives of the communities affected. Other relevant outreach was conducted with national (e.g., Ministers, Parliament) or local authorities to justify the activities carried out in judicial or prosecutorial functions or to request appropriate support.

The ICC field presence is instrumental to investigative and prosecutorial functions, to other operational support, as well as for ensuring victims and witness availability and protection. Deployment of resources in the field should be assessed on a case-by-case basis, strategically adapted to the different stages of the situation and of the cases, and a completion strategy as well as legacy matters should form part of a concept agreed with all relevant stakeholders and taken into account at a very early point in time in each situation.

14. Taking into account the important role of field presence in different situations of the ICC, how do you envision the role of the Registry on issues such as exit strategies and legacy once cases are finalised and investigations in specific situations are closed?

See 13, above.

The Registry, under any guidance of the Presidency, should be responsible for preparing the concept of completion strategies and legacy, which should be developed in a flexible manner, easily adaptable to the particularities of each situation, and depending on the experience gained in the field. In doing so, the Registry should avail itself of the valuable lessons learned by other international and mixed jurisdictions and, together with the relevant actors, fully consider and take into account the long term sustainability of any such strategy.

15. How do you see the Court developing its outreach activities taking into account the complex challenges it continues to face?

The ICC will need to continue exploring forms of partnership and burden sharing with other actors in the field, while retaining ownership and control over the strategies and the core information to be disseminated.

16. How would you ensure that women and children have access to justice and are cognisant of what the Rome Statute is seeking to achieve.

The personal quality of the addressee of the information should be considered in any outreach and communication activity. Special sensitivity should be used for those who, for reasons of gender, age or other factors, are particularly vulnerable to the consequences of statutory crimes or have been otherwise most seriously affected by the criminal conducts charged in the proceedings. The contents of the information and its narrative should be adapted to the different cultural environment.

17. The ICC has established constructive and long term relationships with non-governmental organisations (NGOs). Please describe any previous experience you have working with NGOs. What do you think the role of NGOs should be in the Rome Statute system?

Although I have never been an NGO member, relationships with NGOs were a constant element of my experience in international relations and in international

criminal justice, either for specific projects carried out in partnership (e.g., victims' seminar in Siracusa, Conference in Turin, EU events) or in the context of PrepCom and ASP preparation and negotiation.

NGOs have a reputed role not only in awareness raising and promoting universality, but also in outreach, which could be further developed through modular packages, also tailored on situations and cases, possibly developed in dialogue with the Registry. Additionally, NGOs are well positioned to monitor the needs of national systems, in order to identify and carry out complementarity activities. Research on IHL, substantive and procedural criminal law could also contribute to further developments in the legal framework.

18. How would you manage the Registry's role to ensure that the statutory right of victims to participate in proceedings is achieved in the most meaningful manner whilst ensuring efficiency and expediency?

Application processes should be aligned with the objectives, and simplified.

19. The ICC Registrar is responsible for establishing the eligibility and qualifications of defence counsel, providing support to them, and working with the Court to promote the rights of the defence. What would you do to ensure adequate representation of accused persons, and in particular how would you ensure that the defence have equal facilities, resources and access ('equality of arms') in proceedings?

Professionalism and specialization are key elements of a qualified defence. While employees of the Court should see their own contribution to the mission of the ICC as a primary reward for their service, similarly defence counsel can be expected to be highly motivated by the challenging task of defending the rights of individuals charged with the most serious crimes of international concern. Given the limited resources that are and in the foreseeable future will remain available for the ICC, it is still important that the central role of defence for the fair delivery of justice is acknowledged, at any stage of the proceedings. While there will always be a difference in the means of the OTP and of the defence, the Registry should play a role in ensuring that such difference does not amount to a substantial disadvantage of the defence, so that the defence is effectively afforded an opportunity to present its case.

20. The role of the Registrar is to provide support to Counsel and their teams including the management of legal aid for both defence and victims representatives. In light of the fundamental importance of fair trial and victim participation provided for by the Rome Statute, as a Registrar what, if anything, would you do to improve the support to defence counsel and legal representatives of victims?

The Court is currently providing an outstanding level of support to defence counsel and representatives of victims, not only with the legal aid but also through OPCD and OPCV. It will be in the future important to avoid that such support does not amount to duplication of resources in certain areas, so that resources remain available for any additional support which might be required at specific stages of the proceedings.

21. The first case at the ICC has highlighted the reliance of the ICC on its use of intermediaries. What are your thoughts on the role of intermediaries and their relationship with the Court?

While the use of intermediaries is alien to my own professional experience in court, I acknowledge that resorting to them could be an advantage for the ICC under specific circumstances, in particular where staff cannot be deployed in the field because of security concerns for themselves or for potential witnesses and victims. However, such resources should be strictly utilized based on an ad hoc evaluation of the needs, reporting should follow clear and established lines of responsibility, and their work should be subject to an effective monitoring mechanism at the seat of the Court.

22. Article 68(1) of the Rome Statute provides that the Court 'shall take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses'. What measures would you take to strengthen the protection of victims and witnesses, particularly women?

I am not aware of any instances where the Court has not so far effectively protected victims and witnesses, through the Registry's Victims and Witnesses Unit. Improvements which take into account the specific risks to which victims and witnesses are exposed depending on their personal conditions (e.g., health, age, gender) or on other factors (e.g., crimes, cultural environment) might require additional assistance, including of a psychological nature. Particular experience on and sensitivity to factors affecting the well-being of victims and witnesses should always be a requisite in the recruitment of relevant staff, while the relevant financial constraints are unlikely to offer additional resources for this purpose. It could be considered whether for some situations and cases gratis personnel could be made available for this purpose.

Miscellaneous:

23. Have you made speeches and presentations regarding the ICC or related topics and/or have you published articles/books on these subjects. If so, can you please provide details?

A partial list of relevant speeches and presentations is attached to the CV, as it is a list of relevant publications. All details are included.

The latest publication ("International Criminal Justice: Law and Practice from the Rome Statute to its Review" – Ashgate, 2010) focuses on the experience of the international-ized jurisdictions, and distills lessons that can be put at use in the ICC. This book was part of a wider project, initiated with the Conference organized in 2007 (www.torinoconference.com) and that, based on the same concept, gathered all international and mixed tribunals and some 500 participants.

24. Have you ever been found after an administrative or judicial hearing 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? If yes, please describe the circumstances.

Never.

25. Do you know of any factors that would adversely affect your ability to competently serve as the Registrar, to comply with a member's ethical responsibilities, or to complete the responsibilities that the Registrar is required to assume? If yes, please explain.

None.

Thank you.