

**COALITION FOR THE INTERNATIONAL CRIMINAL COURT
QUESTIONNAIRE FOR ICC JUDICIAL CANDIDATES
DECEMBER 2011 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: **FREMR Robert**

Nationality: **Czech Republic**

Nominating State: **Czech Republic**

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?

As a criminal judge I am very well aware how important it is to protect human freedom and the dignity of individuals and to ensure that nobody is above the law. I have supported the idea of international criminal justice from the very beginning and was among those who in my own country took an active part in the promotion of the establishment of the ICC.

In my view history has shown that the concept of establishing ad hoc tribunals or mixed courts in any place of gross violation of humanitarian law brings with it the risk of undue delays in proceedings and high costs. That was why I greatly approved of the establishment of the ICC – a court which is highly qualified, properly equipped and ready to act immediately. I see a great future for the ICC in becoming a genuinely universal and independent court, so that it cannot be labeled a court established by the victors as in other cases in the past.

But this great idea still has far to go to reach perfection in practice. In my opinion the ICC has recently undergone a crucial stage of its history. It faces great challenges and deals with situations which attract the attention of the whole world. Upcoming years will be decisive for the ICC in order to get worldwide respect from governments, legal experts and the public. I believe that success in that test will positively influence its future and will contribute to an increase in membership, including those major powers which still stand aside.

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The most visible protagonists of the ICC are the Prosecutor and the judges. It is up to them to prove in practice that justice in such complex and extensive cases can be delivered in a timely and efficient manner and gain full respect for the ICC. But that challenge puts demanding requirements on them. Only the most experienced, qualified, absolutely independent and highly motivated judges will meet these.

I firmly believe that my lifetime professional experience of being a criminal judge, including practice in managing the most serious, complex and extensive cases both in the Czech Republic (1983 – 2006, 2009) and in the International Criminal Court for Rwanda (2006 – 2008, 2010 – by now) gives me the right to believe I am sufficiently qualified to fulfill these requirements. Apart from my professional capacity I am highly motivated. I am ready to bring all my energy and devotion to contribute to the final goal – to meeting the expectations of the international community and affirming that the establishment of the ICC was worth the efforts and costs.

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

I believe I would for the most part face the same challenges as a judge of the ICTR. My role would be facilitated by the fact that legal documents governing the ICC's activities are very similar to the Statute and Rules of the ICTR and the vast majority of the jurisprudence as well. Judges trying cases before the ICTR have to overcome identical obstacles – how to deal with cases in a timely and efficient manner while respecting all rights of parties, and mainly how to avoid any obstructions or stalling tactics of parties. I have also learnt how to communicate with colleagues and members of the international support team while respecting their individuality and achieving maximum efficiency.

So I believe that for me the new role in the ICC would not mean any substantial change. From my own experience after having been elected the ICTR ad litem judge I know that the move from a national court to an international one means a fundamental change indeed for any judge. He or she is exposed to completely new substantive and procedural law that he or she is expected to apply immediately. He or she has to communicate with judges and a support team composed of people coming from different legal systems and countries with different cultures. He or she has to conduct complex cases which require perfect managerial skills and flexibility. He or she comes under media scrutiny and as a result of this under certain pressure.

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?

The ICC is now exposed to some pressure being criticized and even facing opinions which cast doubt on the justification for its existence because of the length of proceedings, financing aspects and the way cases are selected. So in my view the coming years will bring an opportunity for the

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ICC to prove its efficiency, freedom from political influence and to contribute substantially to international justice.

There are several challenges before the ICC. I would divide them into **two groups**.

The first one represents challenges that are for ASP, governments of member states and their diplomats to solve, the second one comprises challenges that should be dealt with by the judges, Prosecutor and staff of the ICC. But it is necessary to point out that both groups are mutually connected, overlap and influence each other.

I would put into the **first group** the following issues:

- **To increase the number of member states** including major powers **in order to make the ICC a genuinely universal court**. Without meeting that requirement the ICC can hardly achieve its goals.
- **To improve the level of cooperation** with both member and non-member states. Smooth cooperation is necessary particularly for the execution of arrest warrants issued by the ICC. Reasons why member states refuse to cooperate should be carefully considered. An independent mechanism should exist allowing states to explain their reasons for non-cooperation, to evaluate them and draw conclusions including the possibility of reasonable sanctions.
- **To support the principle of complementarity** – the number of cases before the ICC is increasing. There is a risk of overloading the Court. The ICC ought to deal only with the “top accused” with the highest responsibility for the situation in the country concerned. Simultaneously with the judicial activities of the ICC, outreach activities should continue in order to strengthen countries’ capacity to deal with this kind of case themselves.
- **To reconsider the amendment of the Statute and the Rules** to achieve higher efficiency of ICC activities
 - Possible areas:
 - a) Reform of pre-trial proceedings, broader use of testimonies recorded at the pre-trial stage, written statements, expert reports as evidence, stricter rules on disclosures
 - b) Broader competence for a single judge at pre-trial stage and in making less important procedural decisions during the trial, and decisions on compensations
 - c) An appeal chamber composed of three judges
 - d) Stricter deadlines for filing motions
 - e) More detailed rules on victims' participation in proceedings
- **To keep budget** of the ICC **at the reasonable level**
- **Member states should implement all necessary legislation** to harmonize their national legal system with the Rome Statute
- **To elect the most qualified Prosecutor and judges**

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Second group:

- To **conduct proceedings in a timely and efficient manner**
- To use the tools contained in the Statute (Art 64/6, Rule 140) in order to **maintain a pro-active approach during a trial**, get full control over the proceedings, streamline them, avoid undue delays
- To **manage participation of victims** in a way contributing to reconciliation but not damaging the right of the accused to a fair trial within a reasonable time.
- **To contribute to the reasonable use of the budget** – by streamlining proceedings, limiting in-person examination to main witnesses only while hearing others by video-link or use their written statements as evidence
- To arrange for **some hearings to be held in the country where crimes have been committed** – in order to shorten the “mental distance” between the ICC and the country concerned

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.

Regarding the nomination requirements for the post of ICC judicial candidate, these are listed in the national Rules of Procedure of the Czech Republic (hereto attached)

Before being elected to the ICTR I was a **judge of the Supreme Court of the Czech Republic** – the highest judicial body in the Czech Republic dealing with criminal matters. I was promoted to the Supreme Court in 2004 by the Minister of Justice, upon nomination by the President of the Supreme Court. I met all legal requirements prescribed by law (graduated in law, at least 10 years of practice in the judiciary, high moral standards and expertise).

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).

My nomination was approved by the Government of the Czech Republic upon the unanimous recommendation of a selection Board consisting of the Minister of Foreign Affairs as Chairperson, the President of the Constitutional Court, the President of the Supreme Administrative Court, the Supreme Public Prosecutor, the Deputy of Public Defender of Rights, Presiding Judge of the Supreme Court, members of the National Group in the Permanent Court of Arbitration and representatives of the Ministry of Justice. The Selection Board reviewed my materials, interviewed me, including an assessment of my linguistic skills, evaluated my

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qualifications and assessed my motivation for the position. They recommended me as a candidate who entirely meets the requirements of the Rome Statute for inclusion on List A.

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, I have.

Legal System and Language Abilities:

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

The Czech legal system is representative of the civil law system. But over the last twenty years there have been several amendments of the Code of Criminal Procedure inspired by the common law system – for example a stronger role for parties during trial, some aspects of plea bargaining, crown witness etc.

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

My theoretical knowledge of the common law system became more practical thanks to a two months **study stay in the USA** provided by **the Eindhoven Exchange Fellowship** in 1999. My program was focused on a comparison of common and civil law procedural systems. During this stay I met judges, prosecutors and barristers in thirteen US states.

As a member of several **expert committees within the Council of Europe** I came into contact and exchanged views with legal experts from countries belonging to the common law system (United Kingdom, Ireland, Malta, observers - USA, Canada).

After being elected **ICTR ad litem judge** in 2006 I had an extensive opportunity to gain working experience with the common law system in the courtroom. I have **more than four years of such experience** including daily application of the ICTR Statute and Rules - a special mixture of common and civil law in which common law principles are obviously predominant. I personally consider this experience in practical use of that special kind of law comprising jurisprudence of the ICTR and ICTY very useful, because I might be able to advantage of that in the post of ICC judge.

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

In my experience of three different Chambers of the ICTR, the Statute and Rules of Procedure and Evidence cannot cover all issues of substantive and procedural law which the Chambers usually solve when trying the case. There is still broad room for discretion by the judges. Speaking from my own experience, at such moments each judge tends to promote a solution inspired by his own legal system. Then it is very important not to stick stubbornly to one's own proposal but to

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listen attentively to the other opinions and support that one which will best lead to a timely and just decision.

But I personally believe that problems arising from differing interpretations of provisions of the ICC Statute and Rules might be avoided by on-going training for judges including discussion of controversial issues (for details, see my answer to question No 11).

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 can speak English fluently including knowledge of special legal terminology used in the jurisprudence of the international criminal courts. I began to use English as a working language in 1993 as a representative of the Czech Republic in several expert committees of the Council of Europe. I have actively participated in many seminars abroad using English in discussions and presentations. I have also used English to teach foreign students of criminal law at the Law Faculty of Charles University in Prague.

From 2006 to 2008 and from 2009 up to now I have used English in my daily work as ad litem judge of the ICTR for examination of witnesses and communication with parties during the trial, when managing the support team and for drafting written decisions and judgments

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

Je ne parle pas le français couramment. Je peux lire et traduire des textes en français, et je le fais régulièrement pour les textes juridiques comme les jugements ou les transcriptions. Mais je suis conscient de la nécessité de l'améliorer, vu la plupart des témoignages devant la CPI sont donnés en français. C'est toujours mieux d'obtenir un témoignage direct que de l'interpréter. C'est pourquoi je travaille là-dessus et je crois que mon français s'améliora.

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

In the Czech Republic, judges are specialized. I have dealt for the whole of my professional career (almost 25 years) exclusively with criminal cases. I gradually worked through all levels of the

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Czech criminal judicial system. I have long-term practical experience with management of the most serious and complex cases of violent crime. I have also extensive experience in the area of international criminal law and procedure. As an ICTR judge I have dealt with cases requiring application of international humanitarian law and human rights law including specific issues such as violence against women and children.

1980 – 1983

I began as a **judicial practitioner**, after completing training and passing the judicial exams I become a district court judge.

1983 – 1986

I served as a criminal judge of the **District Court Prague 4**. It is a court of the first instance for less serious crimes. Then I was promoted to the Municipal Court in Prague.

1986 – 1989

As a judge of the **Municipal Court in Prague** I dealt with the most serious criminal cases such as **murders, rapes, robberies, drug trafficking, including cases of organized crime**. On my agenda there were often multi accused cases in which a trial lasting several weeks required efficient management of the case based on a proactive approach from the judges. This kind of case required permanent contact with victims including abused and raped women and children. I was then promoted to the High Court in Prague.

1990 – 2004

At the **High Court – criminal division** I spent most of the time as a **presiding judge of the appeal chamber specializing in cases of murder and other violent crimes**. My agenda was very similar to those kinds of crimes which are prosecuted before the ICC.

From 2004 -2006 and 2009-2010

I was a justice of the **Supreme Court of the Czech Republic**. There I dealt with extraordinary measures (second appeals) brought against all kind of judgments delivered by all subordinate courts of the Czech Republic

From 2006 – 2008 and 2010 until now

I am currently ad litem judge of the ICTR.

There I have delivered judgments in the following genocide cases:

Prosecutor v. Simeon Nchamihigo

Prosecutor v. Simon Bikindi

Decisions on motions to **referral** (Rule 11 bis)

Prosecutor v. Laurent Bucyibaruta

Prosecutor v. Wenceslas Munyeshyaka

Prosecutor v. Fulgence Kayishema

Prosecutor v. Jean Bosco Uwinkindi

Currently I am dealing with the case **Prosecutor v. Idelphonse Nizeyimana** (delivery of judgment is expected in February 2012)

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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?

Even though I am a candidate for list A I consider it worthwhile to mention that from 1993 up to now I have represented the Czech Republic in several expert committees of the Council of Europe. They were mainly focused on areas of international criminal law (GMC - Multidisciplinary Group on Corruption, OCTOPUS – Project against organized crime, GRECO – Group of states against corruption, CCJE - Consultative Council of European Judges - an advisory body to the Committee of Ministers of the Council of Europe) but as bodies set up within the framework of the Council of Europe they also dealt closely with the human rights agenda. I have attended many international conferences including the 9th Assembly of State Parties to the Rome Statute.

Concerning practical use of international criminal and humanitarian law I can refer to my service as ad litem judge of the International Criminal Tribunal for Rwanda 2006 -2008 and 2010 – now) described in detail above.

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 only repeat that I personally see the main attributes of my qualification in the fact that for the whole of my professional career I have served as a criminal judge. I would like to emphasize that after termination of my first mandate at the ICTR (2006-2008) I was appointed to the ICTR again in 2010, at the proposal of President of the ICTR Lord Dennis Byron. I believe that this is the best proof of the fact that my previous mission at the ICTR was highly valued. I do have long-term practical experience with management of the most serious and complex criminal cases, particularly cases of violent crime. Thanks to the four years spent on the bench of the ICTR I am also familiar with the work of a judge at an international court and am qualified to carry out this task immediately.

11. 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?

Having been for many years served as presiding judge of the chamber specializing in violent crime in the Czech Republic, I have extensive experience in dealing with crimes where **the victims were women or children** (murders, grievous bodily harm, forced prostitution, sexual slavery etc.). Thanks to this I learnt that a specific approach to this kind of victim is necessary, especially

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during trial. They require individual treatment and a specific style of examination (for details see answer to question No 15 a).

I then took advantage of that practical experience as a judge at the ICTR. There were many women among victims testifying, including those who had been raped (case Prosecutor v. Idelphonse Nizeyimana). According to the indictment, the rape of Tutsi women was a part of the genocidal intention of the perpetrators, which is legally a very specific issue.

During my service within the Czech judiciary and at the ICTR I also tried many extensive and **complex criminal cases** (including multi accused cases) and demonstrated an ability to manage them in a speedy and efficient manner while respecting all the rights of the accused.

As regards **disclosure of evidence** – this is an area of frequent procedural conflicts between parties before the ICTR. Here I several times faced situations where the delayed service of extensive and highly redacted disclosures resulted in a late start of trial or adjournments in order to respect the defense's right for sufficient time for preparation. I think that the reform of procedural rules of the ICC should also cover that area.

12. 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?

b) Do you consider such training to be important?

I will answer both questions together.

I consider such training to be **vitaly important** and would definitely wish to participate. In my experience the profession of judge requires permanent self-education and training because the law and jurisprudence are living organisms which are permanently developing.

I would divide the necessary training into two areas:

A. Training of newly elected ICC judges – When I was elected ICTR judge I tried to prepare myself in advance before my arrival in Arusha by studying thoroughly the Statute and the Rules of the ICTR and its jurisprudence. In spite of that it took me several months on the bench until I became fully familiar with all practical aspects of proceedings and became a fully qualified judge. This time of “acclimatization” of newly elected ICC judges could be significantly shortened through intensive introductory training.

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B. Common regular seminars for all ICC judges – Practice has repeatedly shown that there were fundamental variations in the interpretation of substantive and procedural law issues among ICC judges. In the ICTR there legal seminars were held twice a year, attended by all judges and focused on discussion of the most frequent and controversial legal issues. It allowed an exchange of views on those current legal topics among judges of different chambers and legal offices and contributed to unification of their views. It seems to me better to solve those problems through common discussion than by exchange of diverse views in court's decisions. The latter approach causes delays of proceedings and in case of deeply controversial opinions could undermine respect for the Court.

13. 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.

Due to the fact that as a penal judge I have specialized in violent crime I have dealt many times with crimes of serious sexual and gender based violence. In my domestic system I tried many cases of rape, enforced prostitution and sexual slavery.

I learnt that victims of that kind of crime require a particularly sensitive approach when being examined before the court.

Even if women and men are legally equal before the court I think an individual approach is necessary. The difference between the physical and psychological dispositions of women and men cannot be ignored. Especially in cases of sexual violence I found it necessary to bear in mind the role of men and women in a particular social group and also the consequences of being a victim of such a crime which often had a grave impact on the position of the victim in her family and society. This has to be taken into account during an examination before the court. In the case of Prosecutor v. Nizeyimana before the ICTR we heard testimony of several Rwandan women who had been brutally raped.

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?

See my answer to the previous question.

14. 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.

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Participation of victims in the proceedings before the ICC represents a new element in international criminal law but is well known to the Czech legal system. From 1961 victims are allowed to participate in criminal proceedings before Czech criminal courts. They have the right not only to ask for compensation but also to attend the trial, to present evidence and express their views on the guilt of the accused.

Thanks to this I have long-term extensive experience in the management of cases including participation of numerous victims. This requires finding a balance between the procedural rights of victims and the rights of the accused while avoiding undue delays. If properly managed, such proceedings could significantly contribute to satisfaction of victims and might create a solid base for reconciliation.

15. 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?

Many times during the trial I faced victims who remained deeply traumatized although a long time had passed since the commitment of the crime. I then treated them with special sensitivity in order to get comprehensive evidence but at the same time not to traumatize them again. Testifying before the court should not be a matter of suffering nor an humiliating experience. I always felt obliged to create the kind of courtroom environment where victims are not harassed by counsels during the examination. This is particularly appropriate in the treatment of women and child victims. If child victims were involved we often prepared them for the courtroom. The preparation might include a visit to an empty courtroom, instructions on how the proceedings would be conducted. As a presiding judge I often ordered the Chamber and parties not to wear their gowns during testimony and we all tried to adjust our language to the age of the child victim.

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.

According to the Czech Code of Criminal Procedure (CCCP) the victims, if interested, could be a party to the case. They are given certain procedural rights independently from the prosecutor. They can participate in the trial personally or through their legal counsel, examine witnesses, propose additional evidence and present closing arguments. It is important to avoid any prejudice to the accused in allowing victims to perform their procedural rights. The most frequent conflict of their rights arose when the gathering of evidence concerning the issue of guilt has been completed while the decision on the compensation of victims required additional evidence. In such moments there was a risk that verdict on guilt would not be delivered in a reasonable time

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due to additional evidence necessary for compensation. In such cases, according to the CCCP, the chamber can refer the decision on compensation to the civil court.

In the case of the ICC, the rules governing the procedural position of victims are not comprehensive and detailed enough. There are still some unsolved controversial issues (for example no rules on a victim's duty to disclose evidence supporting their claim) which in my view opens the possibility for some amendments to the Statute and Rules.

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

The Czech Republic is a member of the Council of Europe and of the European Union, and has adopted and implemented all core human rights law instruments. I was personally involved in the campaign for the ratification process of the Rome Statute in the Czech Republic. I actively participated in the activities of several international bodies dealing with criminal law and human rights like the Multidisciplinary Group on Corruption of the Council of Europe which prepared the text of the European Criminal Law Convention on Corruption.

17. 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?

In accordance with the Czech Constitution the self executing provisions of international treaties prevail over domestic law. As a criminal judge of the Czech Republic I regularly referred to different Articles of the European Convention on Human Rights (mainly Articles 3,5,6, and 10) and applied them in my judgments. Provisions of the ECHR and other treaties on human rights are superior to Czech laws pursuant to our Constitution. I also often referred to the provisions of other international treaties – most frequently to the International Covenant on Civil and Political Rights, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the Convention on the Elimination of all Forms of Racial Discrimination, and the Convention on the Non-Applicability of the Statute of Limitations to War Crimes and Crimes against Humanity.

18. 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.

From 1 January 2010, the Czech Criminal Code incorporates new definitions of several crimes in accordance with the Rome Statute. But crimes of that kind have not appeared before the Czech courts yet.

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As a judge of the ICTR I applied the Statute and Rules of the ICTR that are similar to the Rome Statute but not identical.

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

As a judge of the ICTR (2006-2008 and then 2010 – now) I applied ICTR jurisprudence daily. Very often I also applied jurisprudence of the ICTY, several times we also referred to jurisprudence of the Sierra Leone Tribunal (see judgments in cases of Simeon Nchamihigo, Simon Bikindi, decisions in cases Nizeyimana, Bucyibaruta, Munyeshyaka, Kayishema, Uwinkindi at www.unictt.org).

We have not yet referred to ICC jurisprudence. The reason for this is that current jurisprudence of the ICC is devoted mainly to procedural issues and procedural law of the ICC is not entirely identical with that of the ICTR.

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

I served as a member of several of the **Council of Europe's** expert bodies – Multidisciplinary Group on Corruption (GMC), Consultative Council of European Judges (CCJE), expert of GRECO (Group of states against corruption).

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

I have written several articles for Czech journals devoted to criminal law topics (for example “Other law of the International Criminal Tribunal for Rwanda – Jine pravo, Prague, 2008) and have given lectures on the topic of the ICTR and the ICC at Charles University in Prague and Masaryk University in Brno. Recently I focused on the topic “How to eliminate the setbacks in proceedings before the international criminal tribunals”. I have given lectures on that in The Hague and New York. As a judge dealing permanently with a heavy workload of cases I have not had enough time to devote myself to extensive writing of articles. I expressed my opinions on complex legal issues at the reasoning of my judgments delivered either before Czech courts (see web site of the Supreme Court of the Czech Republic www.nsoud.cz) or before the ICTR (see web site of the ICTR www.unictt.org).

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.

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Please see an electronic copy of the opinion of the President of the Supreme Court of the Czech Republic that is attached.

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?

On browsing the internet you can find my name many times in connection with different legal topics as reference to interviews I gave to TV, radio and the press

Other matters:

21. 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.

I started my judicial career in 1983. Until now I have never been disciplined by any judicial disciplinary panel. On the contrary I have been repeatedly appointed by the President of the High Court and then by the President of the Supreme Court (Chief of Justice) as a member of judicial disciplinary panels. The basic requirement to be appointed to such a disciplinary body is the high moral integrity of the nominee and respect on the part of the other judges.

22. 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.

23. 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?

Not at all. From 1983 I have presided over hundreds of criminal cases and have never been alleged to be biased or prejudiced by any party.

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

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I have always respected the principle of equality of all before the law. It is particularly valid before the ICC where the accused might well be heads of states while the victims are mostly ordinary people.

24. 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?

During my previous professional career I several times tried cases in which current or previous governmental officials had been involved. I remained entirely impartial and ignored any undue pressure, including pressure from certain media. In my view, unlawful loyalty to my government would compromise both me and the Czech Republic.

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?

My impartiality is legally guaranteed by our Constitution and the Law on Courts and Judges. According to that law my mandate is simply interrupted in the event of being elected a judge of the international court. My mandate as judge of the Supreme Court will continue immediately after termination of my mission at the international court. Even hypothetically I do not see any risk of being sanctioned by my government in the event of delivering any "unpopular" judgment or decision.

25. 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 do.

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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.

The Czech judicial system has been overloaded by numerous cases for years. That is why I am used to working under a permanent burden. I have learned to organize my work in the most efficient way allowing me to expedite cases in proper time without undue delays. But this requires extreme effort including sometimes working overtime and weekends as well. In my opinion the profession of judge cannot be carried out just in fixed working hours. A judge has to accommodate his effort to the character of the case he or she is recently dealing with and to the current workload. It might include trying more than one case simultaneously (as during my mission at the ICTR) or a temporary attachment to another Division.

As a matter of fact, prospective election to the ICC would not mean any fundamental change for me. It would be rather the peak of my continuous judicial career as a criminal judge in the Czech Republic (1983 – 2005, 2009 - 2010) and at the International Criminal Tribunal for Rwanda (2006 – 2008, 2010 – now).

26. 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 believe I have addressed all relevant matters above.

Thank you for completing this questionnaire.