

Motivation letter of Cuno J. Tarfusser

I was born in 1954 in Italy, in the bilingual (Italian-German) Province of Bolzano, and obtained my Law degree in 1979 at Padova University. I immediately started working in a law firm and in 1985 I won the competitive examination to be a professional judge and prosecutor and joined the judiciary. Until July 2001, I then worked as a public prosecutor in Bolzano where I have directed investigations and prosecuted several hundreds of criminal cases, many of which complex and with international implications; cases of terrorism and organised crime (further details can be found in the letter of reference of the supervisee), corruption, money laundering (including the case which became famous as the “Siemens scandal”), crimes against vulnerable persons, drug trafficking, EU frauds in cooperation with the European anti-fraud office OLAF and Eurojust, etc.

In July 2001, I was appointed chief of the Public Prosecution Office in Bolzano and started an ambitious and ground-breaking project of reform of the office aimed at devising and implementing managerial criteria in order to drastically increase the effectiveness and efficiency of the Office by optimizing its resources. The project, funded by the EU Social Fund, was successfully implemented and the Office awarded by the President of Italy as best performing Italian public office in 2008. Such were the results of this project – including the recognition of the ISO 9001 quality certification, the reduction of costs well over 50%, the virtual elimination of backlog and of lengthy waiting times usually needed for administrative services – that this organizational model became the blueprint for the “best practice project” launched by the Italian Ministry of Justice for all judicial offices (I further refer to the letter of reference of the supervisor).

In March 2009 I was elected Judge of the ICC. Upon my request I was assigned to the pre-trial Division where I served throughout my whole nine-year term, although being occasionally appointed to the Appeals and Trial Division. I have also served as Vice-president of the Court and President of the Pre-trial Division (on this subject I further refer to the peer's letter of reference).

I submit that my wide experience as national prosecutor dealing with complex cases many of which with an international dimension and as successful court manager, would allow me to increase the Office of the Prosecutor's effectiveness and efficiency in terms of organisation, strategic attitude, investigative and prosecutorial ability, as well as judicial and legal knowledge. I confide that my ten and a half-year long experience as a Court's judge would be beneficial to the further development of the Office as serving the Pre-Trial Division and during the trial I presided over for three years I could observe all aspects of the prosecutorial activity.

One could obviously contend whether it is appropriate for a former judge running as Prosecutor. I believe the response lies in the positive. Due to my experience as judge of the Court, I am in the right position to address as prosecutor those precise links in the investigative and prosecutorial procedures that would improve the overall ability of the Office to succeed. I am inspired in this belief by the experiences of Judge Silvia Fernandez de Gurmendi, who was first special advisor and director at the Office of the Prosecutor until three years before being elected a judge in 2010, then the Court's president from 2015 and of Judge Kimberly Prost, who was serving as President Fernandez' s Chief of Cabinet until her swearing in March 2018. I consider their knowledge of the Court's functioning prior to becoming elected officials

an invaluable asset to the institution. Furthermore I observe that in the system of the Rome Statute the prosecutor acts as an impartial and independent organ of justice and is therefore vested with the same degree of independence and impartiality required of the judges, although with a different function.

This said I submit that my strong and sincere motivation in offering my candidacy is my immense affection for the Court and my commitment for its best possible functioning in the spirit of the Rome Conference; a goal that, I am convinced, must be pursued and can be achieved.

The experience of these fifteen years of operations tells clearly that the Court's ability to achieve its goals depends both on the degree of cooperation provided by the States and the capacity of the judicial, prosecutorial and administrative personnel. The Court as a whole, in all junctions, has remarkable space of improvements and the correct, effective and efficient functioning of the OTP, the driving force of proceedings, is crucial to that effect.

As the prosecutor I would pursue the following main objectives:

1. Revising the strategy of the Office by taking into due account that it can successfully investigate and prosecute only a limited number of cases. Therefore it is a crucial responsibility of the prosecutor to assess with realism the relevant circumstances of each situation and case and to set the right priorities. This evaluation should be mainly result-driven. Priority should be assigned to situations where the prospects of successful investigations appear wider and to cases with suspects in detention. Situations where difficulties on the ground are experienced should absorb a minimal amount of resources and personnel. Currently, I believe the OTP should, if authorised by the relevant Chamber, investigate rapidly and efficiently the situation concerning the Rohingyas and pursue appropriately the prosecution of the Al-Hassan case and the CAR II cases, if the charges are confirmed.
2. Streamlining the organisational structure of the Office by merging some services, such as communication and human resources, to the homologous services in place within the Registry, and in so doing making significant savings.
3. Revising team structures by shrinking them in order not to disperse important knowledge and by uniting from the very beginning of the proceedings investigators and prosecutors under the effective responsibility of a senior trial lawyer, in order to better coordinate the investigations and to continuously evaluate them from a legal view point in view of the judicial proceedings.

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With kind regards,



Cuno J. Tarfusser