

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-RoC72
Date: **1 March 2018**

THE PRESIDENCY

Before: Judge Silvia Fernández de Gurmendi, President
Judge Joyce Aluoch, First Vice-President
Judge Kuniko Ozaki, Second Vice-President

Public

Response of the Registrar to the "Request for Review of the decision by the Registry concerning Ms. Ana Cristina Rodríguez Pineda's Application to the List of Counsel of the International Criminal Court"

Source: Registrar

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

Counsel for the Defence

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Mr Esteban Peralta Losilla

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

Other

Ms Ana Cristina Rodríguez Pineda

I. Introduction

1. This is the Registrar's response, pursuant to regulation 72(3) of the Regulations of the Court ("RoC"), to a request for review submitted by Ms Ana Cristina Rodríguez Pineda ("Ms Pineda") on 8 February 2018 ("Request for Review")¹ of a decision of the Registrar rejecting her application for inclusion in the ICC list of counsel ("List of Counsel").²

II. Submissions

2. Ms Pineda does not have the 10 years of experience required by regulation 67 RoC for lead counsel, and therefore does not qualify for inclusion in the List of Counsel. The Registry submits that Ms Pineda's role as Legal Adviser at the Permanent Mission of Guatemala to the United Nations (2006-2015) does not qualify as "necessary relevant experience, whether as judge, prosecutor, advocate or in other similar capacity, in criminal proceedings", as required by rule 22 of the Rules of Procedure and Evidence ("Rules").
3. Rule 22 of the Rules sets out a two-pronged test to be admitted to the List of Counsel: 1) "established competence in international or criminal law and procedure", and 2) "the necessary relevant experience, whether as judge, prosecutor, advocate or in other similar capacity, in criminal proceedings."
4. It is the second prong of this test that resulted in the rejection of Ms Pineda's application. The Registry has consistently interpreted and applied this second prong as requiring experience in connection with criminal litigation. Rule 22 of the Rules safeguards the rights of suspects and accused. As they are charged with the most serious crimes of concern to the international community, they should

¹ Request for Review of the decision by the Registry concerning Ms. Ana Cristina Rodríguez Pineda's Application to the List of Counsel of the International Criminal Court, ICC-RoC72-01/18-1, 8 February 2018.


² Letter from the Chief of the Counsel Support Section of the ICC to Ms Pineda, ICC-RoC72-01/18-1-AnxI, 23 January 2018.

be represented by counsel with ample experience in connection with criminal litigation. It is submitted that Ms Pineda's experience in drafting and negotiating treaties and in preparing rules of procedure is certainly relevant in establishing competence in international law. However, it does not meet the test of experience in criminal proceedings.

5. With regard to Ms Pineda's submission that an application by a male from the WEOG region was treated differently than her application, the Registry, without entering into a comparison of the two candidates, submits that according to the full file submitted by that applicant, he did meet the criteria to be admitted to the List of Counsel. Indeed, Ms Pineda allows that "it may well be that this person submitted an application with a detailed *curriculum vitae* where the necessary relevant experience is substantiated and complements what is publicly available which is less than 10 years."³

III. Conclusion

6. As Ms Pineda's role as Legal Adviser at the Permanent Mission of Guatemala to the United Nations does not qualify as "the necessary relevant experience... in criminal proceedings", as required by rule 22 of the Rules, she does not have the 10 years of experience required by regulation 67 of the RoC for admission to the List of Counsel. The Registry submits that the Request for Review should therefore be dismissed as without merit.



 Marc Dubuisson
 Director of the Division of Judicial Services
 On behalf of the Registrar

Dated this 1 March 2018

At The Hague, the Netherlands

³ Request for Review, para. 18.