

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/04-01/06
Date: 11 October 2012

THE PRESIDENCY

Before: Judge Sang-Hyun Song, President
Judge Sanji Mmasenono Monageng, First Vice-President
Judge Cuno Tarfusser, Second Vice-President

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

**IN THE CASE OF
*THE PROSECUTOR v. THOMAS LUBANGA DYILO***

Public

Decision replacing a judge in the Appeals Chamber

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

The Office of the Prosecutor
Ms Fatou Bensouda

Counsel for the Defence
Ms Catherine Mabilie
Mr Jean-Marie Biju Duval

Legal Representatives of the Victims
Mr Luc Walley
Mr Franck Mulenda
Ms Carine Bapita Buyangandu
Mr Paul Kabongo Tshibangu

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

The Office of Public Counsel for Victims
Ms Paolina Massidda

**The Office of Public Counsel for the
Defence**
Mr Xavier-Jean Keïta

States Representatives

Amicus Curiae

REGISTRY

Registrar
Ms Silvana Arbia

Deputy Registrar
Mr Didier Preira

Victims and Witnesses Unit
Ms Maria Luisa Martinod-Jacome

Defence Support Section
Mr Esteban Peralta Losilla

**Victims Participation and Reparations
Section**
Ms Fiona McKay

Other
Appeals Chamber

THE PRESIDENCY of the International Criminal Court (“Court”);

NOTING the three appeals filed on 3 October 2012 in the case of *The Prosecutor v. Thomas Lubanga Dyilo* (“case”), namely: “Prosecution’s Notice of Appeal against Trial Chamber I’s ‘Decision on Sentence pursuant to Article 76 of the Statute’”,¹ the “Acte d’appel de la Défense de M. Thomas Lubanga à l’encontre du ‘Jugement rendu en application de l’article 74 du Statut’ rendu par la Chambre de première instance I le 14 mars 2012”² and the “Acte d’appel de la Défense de M. Thomas Lubanga à l’encontre de la ‘Décision relative à la peine, rendue en application de l’article 76 du Statut’ rendue par la Chambre de première instance I le 10 juillet 2012”³ (“appeals”);

NOTING the request for excusal filed before the Presidency on 15 July 2010 by Judge Akua Kuenyehia (“Judge”) pursuant to article 41(1) of the Rome Statute of the International Criminal Court (“Statute”) and rule 33 of the Rules of Procedure and Evidence (“Rules”), wherein the Judge requested to be excused, inter alia, from sitting in all future appeals in the case on the basis of her previous involvement in the pre-trial phase of the case, in the course of which she issued a warrant of arrest for, and confirmed the charges against, Mr Thomas Lubanga Dyilo;⁴

NOTING the decision of the Presidency of 16 July 2010 pursuant to article 41 of the Statute, granting the request for excusal in all future appeals in the case on the ground of the Judge’s previous involvement in the case;⁵

NOTING the composition of the Appeals Chamber as set out in article 39(2)(b)(i) of the Statute, pursuant to which the Appeals Chamber shall be composed of all the judges of the Appeals Division, which in turn is composed of the President and four other judges by virtue of article 39(1) of the Statute;

CONSIDERING rule 38 of the Rules, providing for the replacement of judges;

¹ ICC-01/04-01/06-2933.

² ICC-01/04-01/06-2934.

³ ICC-01/04-01/06-2935.

⁴ ICC-01/04-01/06-2524-Anx1.

⁵ ICC-01/04-01/06-2524-Anx2.

CONSIDERING regulation 15 of the Regulations of the Court, pursuant to which the Presidency is responsible for the replacement of judges in accordance with article 39 of the Statute, and considering regulation 12 of the Regulations of the Court, further to which the Presidency shall, in the event that a member of the Appeals Chamber is disqualified or unavailable for a substantial reason, attach to the Appeals Chamber, on a temporary basis, a judge from either the Trial or Pre-Trial Division;

HEREBY DECIDES:

To temporarily attach Judge Ekaterina Trendafilova, currently assigned to the Pre-Trial Division, to the Appeals Chamber, which, as such, shall be composed as follows for the purpose of the appeals:

Judge Sang-Hyun Song;

Judge Sanji Mmasenono Monageng;

Judge Erkki Kourula;

Judge Anita Ušacka; and

Judge Ekaterina Trendafilova.

ORDERS the Registrar to file and notify this decision to the relevant parties and participants in the case.

Done in both English and French, the English version being authoritative.



Judge Sang-Hyun Song
President

Dated this 11 October 2012

At The Hague, The Netherlands