

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

**No.: ICC-01/04-02/06
Date: 4 December 2013**

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. BOSCO NTAGANDA***

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
Mr Eric MacDonald

Counsel for the Defence of Mr Ntaganda
Mr Marc Desalliers

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
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

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

**Other
Appeals Chamber**

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

NOTING the “Acte d'appel de la Défense de M. Bosco Ntaganda à l'encontre de la ‘Decision on the Defence's application for interim release’ rendue par la Chambre préliminaire II le 18 novembre 2013” (“appeal”) in the case of *The Prosecutor v Bosco Ntaganda* (“case”);¹

NOTING the request for excusal filed before the Presidency on 26 November 2013 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 from the appeal (Annex I);

NOTING the decision of the Presidency of 4 December 2013, granting the judge’s request for excusal from the appeal due to the likelihood of it addressing issues directly related to the warrant of arrest issued by the judge for Mr Ntaganda in the course of her previous involvement in the pre-trial phase of the case (Annex II);

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;²

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

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 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;

¹ 25 November 2013, ICC-01/04-02/06-155.

² Following the decision of the Presidency of 13 March 2012 assigning judges to judicial divisions, the Appeals Division is composed of Judges Sang-Hyun Song, Sanji Monageng, Akua Kuenyehia, Erkki Kourula and Anita Ušacka, Press Release dated 14 March 2012, ICC-CPI-20120315-PR778.

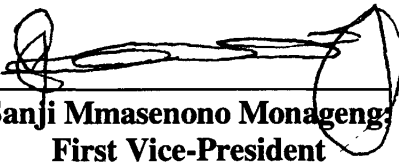
HEREBY DECIDES:

For the purpose of the appeal, to temporarily attach Judge Christine Van den Wyngaert, currently assigned to the Pre-Trial Division,³ to the Appeals Chamber which shall be composed as follows:

Judge Sang-Hyun Song;
Judge Sanji Mmasenono Monageng;
Judge Erkki Kourula;
Judge Anita Ušacka; and
Judge Christine Van den Wyngaert.

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

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



Sanji Mmasenono Monageng
First Vice-President

Dated this 4 December 2013
At The Hague, The Netherlands

³ See decision of the Presidency of 13 March 2012 assigning judges to judicial divisions, Press Release dated 14 March 2012, ICC-CPI-20120315-PR778.