

ANNEX I

**Cour
Pénale
Internationale**



Les Chambres

**International
Criminal
Court**

The Chambers

Internal memorandum
Memorandum interne

To À	Presidency	From De	Judge Hans-Peter Kaul <i>Kaul 5/8/09</i>
Date	5 August 2009	Through Via	
Ref.	HPK/06-2009	Copies	Judge Bruno Cotte Judge Fatoumata Diarra
Subject Objet	Request to be excused from functions in Trial Chamber II		

The purpose of this memorandum is to respectfully request that Judge Hans-Peter Kaul be excused, pursuant to article 41(1) of the Rome Statute ("the Statute") and rule 33 of the Rules of Procedure and Evidence ("the Rules"), from his functions in Trial Chamber II, and be replaced as a member of Trial Chamber II in accordance with rule 38 of the Rules.

Judge Hans-Peter Kaul is currently a member of Pre-Trial Chamber II and Trial Chamber II. Judge Hans-Peter Kaul is also, as Second Vice-President, a member of the Presidency, with a term of office from 11 March 2009 to 10 March 2012.

With regard to his functions of Pre-Trial Chamber II, it is recalled that Pre-Trial Chamber II is competent in the Central African Republic and Uganda situations and any cases emanating thereof. As to the situation in the Central African Republic, Pre-Trial Chamber II continues to be seized with the case of *The Prosecutor v. Jean-Pierre Bemba Gombo* and related proceedings after the Chamber's "Decision pursuant to article 61(7)(a) and (b) of the Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo"¹ of 15 June 2009.

In addition, Judge Hans-Peter Kaul continues to be Single Judge of Pre-Trial Chamber II responsible for all victims' issues in relation to the proceedings of the situation in the Central African Republic and the case of *The Prosecutor v. Jean-*

¹ Pre-Trial Chamber II, ICC-01/05-01/08-424.

Pierre Bemba Gombo.² Likewise, Judge Hans-Peter Kaul continues to be Single Judge of Pre-Trial Chamber II responsible for all victims' issues in relation to the proceedings of the situation in Uganda and the case of *The Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen*.³

With regard to his functions in Trial-Chamber II, it is recalled that Judge Hans-Peter Kaul, currently assigned to the Pre-Trial Division, was temporarily attached by decision of the Presidency dated 29 April 2009 to the Trial Division in order to replace Judge Fumiko Saiga in Trial Chamber II, after the passing of Judge Fumiko Saiga on 24 April 2009.⁴ It is also recalled that the purpose of this temporary attachment of Judge Hans-Peter Kaul to the Trial Division and to Trial Chamber II was to ensure the proper functioning of this Chamber in all judicial proceedings and preparations for the commencement of the trial in the case of *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* scheduled for 24 September 2009.

Concerning his functions in the Presidency, Judge Hans-Peter Kaul, as Second Vice-President, continues to be involved in the daily work of the Presidency. Furthermore, he continues to be seized with a multitude of administrative issues pertaining to the responsibilities of the Presidency to ensure the proper administration of the Court, with the exception of the Office of the Prosecutor, in conformity with article 38(3)(a) of the Statute. Also, Judge Hans-Peter Kaul continues to be the representative of the Presidency in the Permanent Premises Committee and continues to follow the work and all activities pertaining to the project of the future permanent premises of the Court.

As a result, Judge Hans-Peter Kaul, as member of Pre-Trial Chamber II and Trial Chamber II is currently assigned to perform his functions in three out of the four situations in which the Prosecutor has decided to conduct investigations. It is foreseeable that the start of the trial proceedings in the case of *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, scheduled for 24 September 2009, will lead to a further and demanding intensification of all related work of Trial Chamber II. In addition, as Second Vice-President responsible for administrative issues within the Presidency, he continues to be faced with the workload arising out of this responsibility.

² Pre-Trial Chamber II, ICC-01/05-24 and Pre-Trial Chamber II, ICC-01/05-01/08-393.

³ Pre-Trial Chamber II, ICC-02/04-184 and Pre-Trial Chamber II, ICC-02/04-01/05-385.

⁴ Presidency, ICC-01/04-01/07-1086.

Given the current workload of Judge Hans-Peter Kaul as outlined above, he respectfully requests the Presidency, in order to guarantee the good administration of justice, to be excused from his functions in Trial Chamber II and to be replaced as a member of Trial Chamber II as soon as possible before the start of the trial proceedings of this chamber, scheduled for 24 September 2009.

Judge Hans-Peter Kaul has no objection to making this request public, pursuant to rule 33 of the Rules, should the Presidency decide to do so.
