

ANNEX II



**Cour
Pénale
Internationale**
**International
Criminal
Court**

La Présidence
The Presidency

REDACTED

Internal memorandum
Memorandum interne

To À	Judge Christine Van den Wyngaert	From De	The Presidency <i>Shs</i>
Date	26 April 2013	Through Via	
Ref.	2013/PRES/00063-04	Copies	Judge Kuniko Ozaki, Judge Chile Eboe-Osuji
Subject Objet	Decision on the request to be excused from the exercise of judicial functions in Trial Chamber V, pursuant to article 41 of the Rome Statute		

The Presidency, composed of the President (Judge Sang-Huyn Song), the First Vice-President (Judge Sanji Mmasenono Monageng) and the Second Vice-President (Judge Cuno Tarfusser), hereby decides upon the request of Judge Christine Van den Wyngaert (hereinafter "Judge") of 8 April 2013 to be excused from her functions as a judge of Trial Chamber V and to be replaced as a judge of Trial Chamber V.

The request for excusal is granted.

Factual background

By memorandum dated 8 April 2013, the Judge requested the Presidency to excuse her from her functions as a judge of Trial Chamber V, pursuant to article 41(1) of the Rome Statute (hereinafter "Statute") and rule 33 of the Rules of Procedure and Evidence (hereinafter "Rules"), and to be replaced as a judge of Trial Chamber V pursuant to rule 38 of the Rules (hereinafter "request") before the start of the trials in the cases of *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang* and *The Prosecutor v. Uhuru Muigai Kenyatta* (hereinafter "Kenya cases"), scheduled to commence imminently.

The request for excusal is based upon the current and anticipated workload of the Judge, who as a member of Pre-Trial Chamber I, Trial Chamber II and Trial Chamber V, is currently seized of the situations in Libya and Côte d'Ivoire, the case of *The Prosecutor v. Germain Katanga* and the two Kenya cases.

The Judge indicated that the commencement of the trials in the Kenya cases will lead to an intensification of the work of Trial Chamber V, thereby significantly adding to the Judge's already "unprecedented" heavy workload. The Judge submits that her assignment to that Chamber was temporary, only for the purpose of the preparation of the two Kenya cases for trial. REDACTED

Decision

The request for excusal is properly before the Presidency, in accordance with article 41 of the Statute and rule 33 of the Rules.

The Presidency, having considered the matter before it, finds the request to be well founded. In coming to this conclusion the Presidency took particular note of the workload and REDACTED of the Judge as described above.

In all the particular circumstances, the request for excusal is granted. The Presidency, pursuant to rule 38 of the Rules and regulation 15 of the Regulations, will proceed with the replacement of the Judge in Trial Chamber V.

Noting that the Judge has consented to a redacted version of the request for excusal being made public, pursuant to rule 33(2) of the Rules, a redacted version of that document will, in addition to a redacted version of this decision, be annexed to the subsequent decision of the Presidency replacing the Judge in Trial Chamber V.