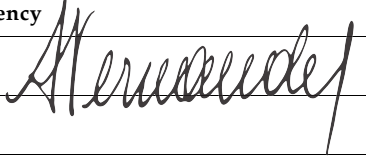




**Cour
Pénale
Internationale**
**International
Criminal
Court**

La Présidence
The Presidency

Internal memorandum
Memorandum interne

To À	Judge Kuniko Ozaki	From De	The Presidency
Date	4 July 2016	Through Via	
Ref.	2016/PRES/00160-02	Copies	
Subject Objet	Decision on the "Request to be Excused" dated 20 June 2016		

The Presidency, composed of the President (Judge Silvia Fernández de Gurmendi), the First Vice-President (Judge Joyce Aluoch) and Judge Sanji Monageng, hereby decides upon your request of 20 June 2016, pursuant to article 41(1) of the Rome Statute ("Statute") and rule 33(1) of the Rules of Procedure and Evidence ("Rules"), to be excused from your functions as a judge of Trial Chamber III in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo* ("case").¹

The request for excusal is granted.

Factual Background

On 20 June 2016, you requested that, following the issuance of the sentencing judgment in the case, you be excused from Trial Chamber III and from any involvement in future proceedings in the case. In that same memorandum, you also requested to be excused from the Presidency for the purpose of deciding upon your request.

The Presidency notes that you made your request for excusal on the following basis:

On 18 July 2014, I was assigned to Trial Chamber VI, to hear the case of *The Prosecutor v. Bosco Ntaganda* ('Ntaganda case'). This is a large and complex case, which since September 2015 has been actively in trial and is pursuing an intensive sitting schedule designed towards ensuring the fair and expeditious conduct of proceedings. Noting that my term of office is due to expire in March 2018, I consider it in the interests of the fair and efficient

¹ Request to be Excused, 20 June 2016, 2016/PRES/00160-1.

administration of justice for me to dedicate my attention to the *Ntaganda* case at this time.

In addition to the intensive trial schedule in the *Ntaganda* case, I also currently serve as Presiding Judge in Trial Chamber V(b) and as the Second Vice-President of the Court. (footnotes omitted)

You also referred to matters related to personal circumstances, which shall remain confidential.

On 21 June 2016, Trial Chamber III issued its “Decision on Sentence pursuant to Article 76 of the Statute” in the case.²

On 30 June 2016, Judge Sanji Monageng assumed her responsibility as a member of the Presidency for the purpose of deliberating on the request.

Decision

The request is properly before the Presidency in accordance with article 41(1) of the Statute and rule 33(1) of the Rules.

Article 41(1) of the Statute provides, in relevant part, that “[t]he Presidency may, at the request of a judge, excuse that judge from the exercise of a function under this Statute”. Rule 33(1) of the Rules provides, in relevant part, that a judge “seeking to be excused from his or her functions shall make a request in writing to the Presidency, setting out the grounds upon which he or she should be excused.”

In light of the reasons that you have given, the Presidency finds your request to be well-founded.

The Presidency recalls its previous finding that a judicial workload which includes participation in multiple simultaneous cases at the trial level is not, of itself, necessarily sufficient to warrant the excusal of a judge.³ In addition, the Presidency is of the view that, ideally, the judges who conducted the trial proceedings and delivered the decisions on articles 74 and 76 should also address reparations to victims, as those judges have extensive knowledge of the case and its context.

² ICC-01/05-01/08-3399.

³ See Presidency, “Decision on the Renewed Request for withdrawal from the case of *The Prosecutor v. Uhuru Muigai Kenyatta*”, 30 January 2014, ICC-01/09-02/11-890-AnxI.

Nonetheless, the Presidency takes into account the compelling personal circumstances referred to in your request, together with your current intensive workload that results, in particular, from the combination of the ongoing trial schedule in *The Prosecutor v. Bosco Ntaganda* with your work as the Second Vice-President of the Court.

In light of the above reasons taken as a whole, the Presidency considers that it is appropriate that you be excused from your responsibilities in the *Bemba* case.

The Presidency shall make public this decision, to the extent of the consent given by you, in accordance with rule 33(2) of the Rules