

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/04-01/07

Date: 17 May 2010

THE PRESIDENCY

Before: Judge Sang-Hyun Song, President
Judge Fatoumata Dembele Diarra, First Vice-President
Judge Hans-Peter Kaul, Second Vice-President

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
*THE PROSECUTOR v. GERMAIN KATANGA and MATHIEU NGUDJOLO CHUI***

Public

Decision replacing judges 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
Mr Luis Moreno Ocampo, Prosecutor
Ms Fatou Bensouda, Deputy-Prosecutor

Counsel for the Defence of Mr Katanga
Mr David Hooper
Mr Andres O'Shea

Counsel for the Defence of Mr Ngudjolo Chui
Mr Jean-Pierre Kilenda Kakengi Basila
Prof Jean-Pierre Fofé Djofia Malewa

Legal Representatives of the Victims

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

Defence Support Section
Mr Esteban Peralta Losilla

Deputy Registrar
Mr Didier Preira

Detention Section
Mr Anders Backman

Victims and Witnesses Unit
Ms Maria Luisa Martinod-Jacome

Other
Appeals Chamber

Victims Participation and Reparations Section
Ms Fiona McKay

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

NOTING the “Decision on the ‘Defence Application for Leave to Appeal the Trial Chamber’s *Décision relative aux modalités de participation des victimes au stade des débats sur le fond*’”;¹

NOTING the “Defence document in support of appeal against the *Décision relative aux modalités de participation des victimes au stade des débats sur le fond*” (“appeal”);²

NOTING the request for excusal filed before the Presidency on 16 February 2010 by Judges Akua Kuenyehia and Anita Ušacka (“judges”) pursuant to article 41(1) of the Statute and rule 33 of the Rules of Procedure and Evidence (“Rules”), wherein the judges requested to be excused from sitting in all appeals in the case of *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui* (hereinafter “case”) on the basis of their previous involvement in the pre-trial phase of the case, in the course of which they issued warrants of arrest for, and confirmed the charges against, Mr Germain Katanga and Mr Mathieu Ngudjolo Chui;³

RECALLING the decision of the Presidency of 8 March 2010 pursuant to article 41 of the Rome Statute of the International Criminal Court (“Statute”), granting the request for excusal on the ground of the previous involvement of the judges in the case and treating them as unavailable for the purpose of all appeals in the case;⁴

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;⁵

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

¹ ICC-01/04-01/07-2032, 19 April 2010.

² ICC-01/04-01/07-2063, 3 May 2010.

³ ICC-01/04-01/07-1949, Annex I.

⁴ ICC-01/04-01/07-1949, Annex II.

⁵ Following the fourteenth and fifteenth plenary sessions of the judges held on 13 March 2009 and 8 June 2009 respectively, the Appeals Division and Chamber is composed of Judges Sang-Hyun Song, Akua Kuenyehia, Erkki Kourula, Anita Ušacka and Daniel David Ntanda Nsereko.

NOTING 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;

HEREBY DECIDES:

For the purpose of the appeal, to temporarily attach Judge Ekaterina Trendafilova, currently assigned to the Pre-Trial Division, and Judge Joyce Aluoch, currently assigned to the Trial Division, to the Appeals Chamber, which shall be composed as follows:

Judge Sang-Hyun Song;

Judge Erkki Kourula;

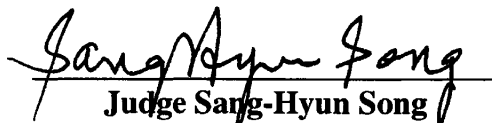
Judge Ekaterina Trendafilova;

Judge Daniel David Ntanda Nsereko; and

Judge Joyce Aluoch.

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 17 May 2010

At The Hague, The Netherlands