



Original: **English**

No.: **ICC-01/04-02/06**

Date: **12 January 2017**

**THE PRESIDENCY**

**Before:** Judge Joyce Aluoch, First Vice-President  
Judge Kuniko Ozaki, Second Vice-President  
Judge Sanji Mmasenono Monageng

**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 James Stewart  
 Ms Nicole Samson

**Counsel for Bosco Ntaganda**

Mr Stéphane Bourgon  
 Mr Christopher Gosnell

**Legal Representatives of Victims**

Ms Sarah Pellet  
 Mr Dmytro Suprun

**Legal Representatives of Applicants****The Office of Public Counsel for Victims****The Office of Public Counsel for the Defence****States Representatives****Amicus Curiae****REGISTRY**

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**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 notes the “Appeal on behalf of Mr Ntaganda against Trial Chamber VI’s ‘Second decision on the Defence’s challenge to the jurisdiction of the Court in respect of Counts 6 and 9’, ICC-01/04-02/06-1707”<sup>1</sup> (“Appeal”) in the case of *The Prosecutor v. Bosco Ntaganda* (“Ntaganda case”).

The Presidency recalls that, on 21 October 2015, it granted the request of Judge Silvia Fernández de Gurmendi for excusal from all pending and future appeals in the *Ntaganda* case.<sup>2</sup> The Presidency further recalls that President Fernández de Gurmendi has been excused from the deliberations of the Presidency on her replacement in the Appeals Chamber in previous appeals in the *Ntaganda* case.<sup>3</sup> On 11 January 2017, following the filing of the Appeal, Judge Sanji Mmasenono Monageng assumed responsibilities as a member of the Presidency for the purpose of deliberating on the replacement of Judge Fernández de Gurmendi for the Appeal.

The Presidency notes article 39(1) and (2)(b)(i) of the Rome Statute, rule 38 of the Rules of Procedure and Evidence and regulations 12 and 15(1) of the Regulations of the Court.

The Presidency recalls that, on 21 October 2015, in accordance with the Presidency’s policy of effecting the replacement of a judge by lot from a roster of eligible judges, Judge Fernández de Gurmendi was replaced in the Appeals Chamber by Judge Raul C. Pangalangan for the purpose of an appeal in the *Ntaganda* case.<sup>4</sup> The Presidency further recalls its policy that a judge already designated by lot may be subsequently designated to sit on other appeals under article 82 of the Rome Statute that arise in the same case.<sup>5</sup>

The Presidency hereby decides, in the current circumstances, to temporarily attach Judge Pangalangan, currently assigned to the Pre-Trial Division, to the Appeals Chamber for the purpose of hearing the Appeal.

<sup>1</sup> ICC-01/04-02/06-1710, 10 January 2017.

<sup>2</sup> ICC-01/04-02/06-925-AnxI.

<sup>3</sup> Presidency, *The Prosecutor v. Bosco Ntaganda*, “Decision replacing a judge in the Appeals Chamber”, 21 October 2015, ICC-01/04-02/06-925; Presidency, *The Prosecutor v. Bosco Ntaganda*, “Decision replacing a judge in the Appeals Chamber”, 11 December 2015, ICC-01/04-02/06-1052; Presidency, *The Prosecutor v. Bosco Ntaganda*, “Decision replacing a judge in the Appeals Chamber”, 22 September 2016, ICC-01/04-02/06-1529.

<sup>4</sup> ICC-01/04-02/06-925; See also ICC-01/04-02/06-1052 and ICC-01/04-02/06-1529.

<sup>5</sup> See e.g. Presidency, *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, “Decision replacing two judges in the Appeals Chamber”, 18 September 2015, ICC-02/11-01/15-230, p. 4; Presidency, *The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*, “Decision replacing a judge in the Appeals Chamber”, 3 June 2016, ICC-01/05-01/13-1922.

The Presidency hereby decides that the Appeals Chamber shall be composed as follows for the purpose of hearing the Appeal:

Judge Sanji Mmasenono Monageng

Judge Christine Van den Wyngaert

Judge Howard Morrison

Judge Piotr Hofma ski

Judge Raul C. Pangalangan

The Presidency 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.

A handwritten signature in black ink, appearing to read 'J Aluoch', written over a horizontal line.

**Judge Joyce Aluoch**  
**First Vice-President**

Dated this 12 January 2017

At The Hague, The Netherlands