



To À	All Judges of the Pre-Trial Division	From De	Judge Antoine Kesia-Mbe Mindua, President of the Pre-Trial Division
Date	29 June 2018	Through Via	
Ref.	ICC-PTD-01/2018	Copies	Gilbert Bitti, Senior Legal Adviser to the Pre-Trial Division
Subject Objet	Administrative Decision amending the Procedure and Roster under regulation 46(3) of the Regulations of the Court		

1. **THE PRESIDENT OF THE PRE-TRIAL DIVISION** of the International Criminal Court, based on the authority in regulation 14 of the Regulations of the Court (the "Regulations") to oversee the administration of the Pre-Trial Division, hereby amends the procedure and the roster within the meaning of regulation 46(3) of the Regulations.
2. The President of the Pre-Trial Division notes regulation 46(3) of the Regulations of the Court whereby

Any matter, request or information not arising out of a situation assigned to a Pre-Trial Chamber in accordance with sub-regulation 2, shall be directed by the President of the Pre-Trial Division to a Pre-Trial Chamber according to a roster established by the President of the Division.

3. Regulation 46(3) of the Regulations leaves the President of the Pre-Trial Division with little discretion. As long as the subject-matter referred to in the matter, request or information pertains to an issue that does not appear (a) to fall outside the competence of the Pre-Trial Chamber, or (b) to be manifestly frivolous, the

President of the Pre-Trial Division shall direct it to a Pre-Trial Chamber, based on a pre-existing roster.¹

4. In this context, the President of the Pre-Trial Division recalls the administrative decisions of the former President of the Pre-Trial Division, Judge Hans-Peter Kaul, establishing and amending the roster according to regulation 46(3) of the Regulations;² and the administrative decision of the former President of the Pre-Trial Division, Judge Christine Van den Wyngaert, establishing the procedure for the handling of any "matter, request or information" (together, "communications") falling under regulation 46(3) of the Regulations.³
5. The President of the Pre-Trial Division recalls the "Administrative Decision establishing a procedure for the handling of any 'matter, request or information' falling under regulation 46(3) of the Regulations of the Court" dated 18 February 2015 (the "2014 Administrative Decision") according to which a communication under regulation 46(3) of the Regulations may not be registered in the ICC-RoC46(3) record, unless the President of the Pre-Trial Division has determined first that the "matter, request or information" passes the test as stipulated in

¹President of the Pre-Trial Division, "Decision assigning the 'Prosecution's Request for a Ruling on Jurisdiction under Article 19(3) of the Statute' to Pre-Trial Chamber I", 11 April 2018, ICC-RoC46(3)-01/18-2, para 2, "Decision assigning the 'Request for review of the Prosecution's decision of 23 April 2014 not to open a Preliminary Examination concerning alleged crimes committed in the Arab Republic of Egypt, and the Registrar's Decision of 25 April 2014' to Pre-Trial Chamber II", 10 September 2014, ICC-RoC46(3)-01/14-1, para 3

²President of the Pre-Trial Division, "Administrative Decision concerning the establishment of a Roster according to regulation 46 para 3 of the Regulations of the Court", 19 December 2007, ICC-PTD-01/2007, the administrative decision (without the actual Roster) was communicated to the Registry in "Administrative decision concerning the communications to the President of the Pre-Trial Division falling under regulation 46 para 3 of the Regulations of the Court", 19 December 2007, ICC-PTD-02/2007 The Roster was amended subsequently, *see* President of the Pre-Trial Division, "Administrative Decision with Annex concerning the amendment of the Roster according to regulation 46(3) of the Regulations of the Court", 30 June 2009, ICC-PTD-01/2009

³President of the Pre-Trial Division, "Administrative Decision establishing a procedure for the handling of any 'matter, request or information' falling under regulation 46(3) of the Regulations of the Court", 18 February 2015, ICC-PTD-01/2015 This decision was communicated to the Registrar of the Court

paragraph 3 above. This filter mechanism ensures that the ICC-RoC46(3) record is not overburdened with communications that clearly do not pass the test.

6. With a view to determining whether any "matter, request or information" passes the test set out in paragraph 3 above, the following procedure shall be followed when dealing with any "matter, request or information" falling under regulation 46(3) of the Regulations

I. ~~Procedure Regarding Communications Submitted to the Registrar~~

7. Upon receiving a "matter, request or information", the Registry shall always and immediately inform the President of the Pre-Trial Division thereof by way of an email alongside with the communication concerned
8. In the event that the President of the Pre-Trial Division determines that the "matter, request or information" passes the test as recited in paragraph 3 above, then the President of the Pre-Trial Division will order the Registrar by way of email to file the "matter, request or information" into the ICC-RoC46(3) record and assign it a new serial number in a given year, as provided for in regulation 20(1) and 27 of the Regulations of the Registry.
9. In the event that the President of the Pre-Trial Division determines that the "matter, request or information" does not pass the test as recited in paragraph 3 above, then the President of the Pre-Trial Division will order the Registrar to respond to the applicant on his or her behalf, without the "matter, request or information" being registered into the case record ICC-RoC46(3). This response shall be prepared in consultation with the President of the Pre-Trial Division.
10. Finally, the Registrar is ordered to keep a full record of any "matter, request or information" received.

II. Procedure Regarding Communications Submitted Directly to the President of the Pre-Trial Division

- 11 In the event that the President of the Pre-Trial Division is directly seized of a "matter, request or information", he or she shall determine whether the communication passes the test, as recited in paragraph 3 above.
12. In the event that the President of the Pre-Trial Division determines that the "matter, request or information" passes the test as recited in paragraph 3 above, then the President of the Pre-Trial Division will order the Registrar by way of email to assign the "matter, request or information" a new serial number in a given year, as provided for in regulation 20(1) and 27 of the Regulations of the Registry, and to file it into the ICC-RoC46(3) record.
13. In the event that the President of the Pre-Trial Division determines that the "matter, request or information" does not pass the test as recited in paragraph 3 above, then the Registrar will be ordered by way of email not to assign the "matter, request or information" a new serial number in a given year, as provided for in regulation 20(1) and 27 of the Regulations of the Registry. As a result, the "matter, request or information" will not be filed into the ICC-RoC46(3) record. Lastly, the President of the Pre-Trial Division will order the Registrar to respond to the applicant on his or her behalf. This response shall be prepared in consultation with the President of the Pre-Trial Division.

III. Amendment of the ~~Pre-Existing~~ Roster

14. The amendment of the roster became necessary due to the recent re-composition of the Pre-Trial Chambers and the dissolution of Pre-Trial Chamber III.⁴ In amending the roster, the President of the Pre-Trial Division is also guided by the necessity for a fair and equitable distribution to the existing Pre-Trial Chambers of any "matter, request or information not arising out of a situation assigned to a Pre-Trial Chamber".
15. The roster itself shall not be communicated to the Registry, the Prosecutor and the general public,

FOR THESE REASONS, THE PRESIDENT OF THE PRE-TRIAL DIVISION HEREBY

- (i) **amends** the existing procedure as established in the 2015 Administrative Decision;
- (ii) **amends** the regulation 46(3) roster of Pre-Trial Chambers with immediate effect; and
- (iii) **decides** that the administrative decisions by the former Presidents of the Pre-Trial Division dated 19 December 2007 and 18 February 2015 remain otherwise unchanged and in effect.

⁴ See, for example, Presidency, *Situation in Georgia*, Decision assigning judges to divisions and recomposing Chambers, 16 March 2018, ICC-01/15-16



Judge Antoine Kesia-Mbe Mindue
President of the Pre-Trial Division

Dated this Friday, 29 June 2018

At The Hague (The Netherlands)