



Original: **English**

No.: **ICC-01/09-01/11**
Date: **18 September 2015**

THE PRESIDENCY

Before: Judge Silvia Fernández de Gurmendi, President
Judge Joyce Aluoch, First Vice-President
Judge Kuniko Ozaki, Second Vice-President

SITUATION IN KENYA

IN THE CASE OF
THE PROSECUTOR v. WILLIAM SAMOEI RUTO AND JOSHUA ARAP SANG

Public with public annex

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
 Mr. Anton Steynberg

Counsel for William Samoei Ruto

Mr. Karim Khan
 Mr. David Hooper
 Mr. Essa Faal
 Ms. Shyamala Alagendra

Counsel for Joshua Arap Sang

Mr. Joseph Kipchumba Kigen-Katwa
 Ms. Caroline Buisman

Legal Representatives of the Victims

Mr. Wilfred Nderitu

Legal Representative of Applicants

Unrepresented Victims

**Unrepresented Applicants for
 Participation/Reparation**

**The Office of Public Counsel for the
 Victims**

Ms. Paolina Massidda

**The Office of Public Counsel for the
 Defence**

States Representatives

Amicus Curiae

REGISTRY

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 that in a decision dated 10 September 2015, Trial Chamber V(a) granted the defence requests for leave to appeal its “Decision on Prosecution Request for Admission of Prior Recorded Testimony”¹ (“Impugned Decision”) in the case of *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang* (“appeal”).²

On 16 September 2015, Judge Sanji Mmasenono Monageng filed a request before the Presidency pursuant to article 41(1) of the Rome Statute of the International Criminal Court (“Statute”) and rule 33(1) of the Rules of Procedure and Evidence (“Rules”), wherein she requested to be excused from her function as a judge of the Appeals Chamber for the purpose of the appeal.

On 18 September 2015, the Presidency granted Judge Monageng’s request for excusal from the Appeals Chamber for the purpose of the appeal (Annex I).

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

The Presidency hereby decides, for the purpose of hearing the appeal, to temporarily attach Judge Péter Kovács, currently assigned to the Pre-Trial Division, to the Appeals Chamber. In selecting Judge Péter Kovács, lots were drawn by the President, in the presence of Presidency staff members, from a roster of eligible replacement judges. In preparing the roster, due attention was paid to case-related and other conflicts, in order to safeguard the appearance of impartiality, as well as the workload of eligible replacement judges. With respect to workload, presiding judges of active trials and single judges of confirmation of charges proceedings were excluded from the roster.

¹ 19 August 2015, ICC-01/09-01/11-1938-Corr-Red2.

² Public Redacted Version of Decision on the Defence’s Applications for Leave to Appeal the “Decision on Prosecution Request for Admission of Prior Recorded Testimony”, ICC-01/09-01/11-1953-Red-Corr.

Accordingly, the Appeals Chamber shall be composed as follows for purposes of the appeal:

Judge Fernández de Gurmendi

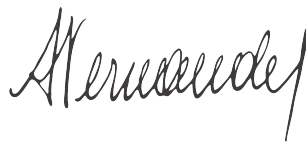
Judge Christine Van den Wyngaert

Judge Howard Morrison

Judge Piotr Hofma ski

Judge Péter Kovács

Done in both English and French, the English version being authoritative.



Judge Silvia Fernández de Gurmendi
President

Dated this 18 September 2015

At The Hague, The Netherlands