

## **ANNEX I**

**Cour  
Pénale  
Internationale**



Les Chambres

**International  
Criminal  
Court**

The Chambers

Internal memorandum Memorandum interne			
To / À	The Presidency	From / De	Judge S. M. Monageng
Date	14 March 2012	Through / Via	
Ref.	ICC-01/04-01/10 OA 4	Copies	
Subject / Objet	Request to be Excused		

**CONFIDENTIAL**

I hereby request, pursuant to article 41 of the Statute and rule 33 of the Rules of Procedure and Evidence, to be excused from being a member of the Chamber seized with the appeal "OA 4" arising from the case *Prosecutor v. Callixte Mbarushimana* (ICC-01/04-01/10).

Under rule 35 of the Rules, a Judge has an affirmative duty to request the Presidency to be excused when the Judge has reason to believe that a ground for disqualification exists. Under this rule, the Judge "shall not wait for a request for disqualification to be made in accordance with article 41." Pursuant to article 41 (2) (a):

A judge shall not participate in any case in which his or her impartiality might reasonably be doubted on any ground. A judge shall be disqualified from a case in accordance with this paragraph if, *inter alia*, that judge has previously been involved in any capacity in that case before the Court or in a related criminal case at the national level involving the person being investigated or prosecuted. A judge shall also be disqualified on such other grounds as may be provided in the Rules of Procedure and Evidence.

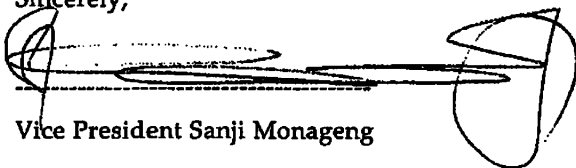
The appeal OA 4 was filed on 12 March 2012 by the Prosecutor.<sup>1</sup> The appeal is directed against the "Decision on the Confirmation of charges" (hereinafter: the "Impugned Decision").<sup>2</sup> As Presiding Judge of the Pre-Trial Chamber assigned with the Situation in the Democratic Republic of the Congo, I was a member of the bench rendering the Impugned Decision. Further, I was a member of the Chamber granting leave to appeal the Impugned Decision according to article 82 (1) (d) of the Statute.

<sup>1</sup> ICC-01/04-01/10-499.

<sup>2</sup> ICC-01/04-01/10-465-Conf.

Considering the facts and the law, I cannot but request to be excused from this appeal.

Sincerely,

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, positioned above the printed name.

Vice President Sanji Monageng

**Cour  
Pénale  
Internationale**



La Présidence

**International  
Criminal  
Court**

The Presidency

**Internal memorandum  
Memorandum interne**

<b>To   À</b>	<b>President Sang-Hyun Song Vice-President Cuno Tarfusser</b>	<b>From   De</b>	<b>Vice-President Sanji Monageng</b>
<b>Date</b>	15 March 2012	<b>Through   Via</b>	
<b>Ref.</b>	2012/PRES/133-2	<b>Copies</b>	
<b>Subject   Objet</b>	<b>Request to be excused from the Presidency</b>		

I hereby request to be excused from the deliberations of the Presidency upon my request to be excused from being a member of the Appeals Chamber seized with the appeal "OA 4" arising from the case of *The Prosecutor v. Callixte Mbarushimana*,<sup>1</sup> as the impression could be given of a possible conflict of interest given my position as a member of the Presidency.

I have no objection to making public this request, as well as my request to be excused from the Appeals Chamber and the decision thereon, pursuant to rule 33 of the Rules, should the Presidency decide to do so.

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<sup>1</sup> 2012/PRES/133.