

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

No.: **ICC-01/04-01/06**  
Date: **7 September 2012**

**THE PRESIDENCY**

**Before:** Judge Sang-Hyun Song, President  
Judge Sanji Mmasenono Monageng, First Vice-President  
Judge Cuno Tarfusser, Second Vice-President

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO**

**IN THE CASE OF**  
***THE PROSECUTOR v. THOMAS LUBANGA DYILO***

**Public with two public annexes**

**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

**Counsel for the Defence**  
Ms Catherine Mabile  
Mr Jean-Marie Biju Duval

**Legal Representatives of the Victims**  
Mr Luc Walley  
Mr Franck Mulenda  
Ms Carine Bapita Buyangandu  
Mr Paul Kabongo Tshibangu

**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**

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**Registrar**  
Ms Silvana Arbia

**Deputy Registrar**  
Mr Didier Preira

**Victims and Witnesses Unit**  
Ms Maria Luisa Martinod-Jacome

**Defence Support Section**  
Mr Esteban Peralta Losilla

**Victims Participation and Reparations  
Section**  
Ms Fiona Mckay

**Other**  
Appeals Chamber

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

**NOTING** the “Acte d’appel de la Défense de M. Thomas Lubanga à l’encontre de la ‘Decision establishing the principles and procedures to be applied to reparation’ rendue par la Chambre de première instance I le 7 août 2012” (“appeal”) in the case of *The Prosecutor v. Thomas Lubanga Dyilo* (“case”);<sup>1</sup>

**NOTING** the request for excusal filed before the Presidency on 15 July 2010 by Judge Akua Kuenyehia (“Judge”) pursuant to article 41(1) of the Rome Statute of the International Criminal Court (“Statute”) and rule 33 of the Rules of Procedure and Evidence (“Rules”), wherein the Judge requested to be excused, inter alia, from sitting in all future appeals in the case on the basis of her previous involvement in the pre-trial phase of the case, in the course of which she issued a warrant of arrest for, and confirmed the charges against, Mr Thomas Lubanga Dyilo;<sup>2</sup>

**NOTING** the decision of the Presidency of 16 July 2010 pursuant to article 41 of the Statute, granting the request for excusal in all future appeals in the case on the ground of the Judge’s previous involvement in the case;<sup>3</sup>

**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;

**CONSIDERING** rule 38 of the Rules, providing for the replacement of judges;

**CONSIDERING** 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 considering 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;

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<sup>1</sup> ICC-01/04-01/06-2917.

<sup>2</sup> Annex I.

<sup>3</sup> Annex II.

**HEREBY DECIDES:**

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

Judge Sang-Hyun Song;

Judge Sanji Mmasenono Monageng;

Judge Erkki Kourula;

Judge Anita Ušacka; and

Judge Ekaterina Trendafilova.

**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.

  
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Judge Sang-Hyun Song  
President

Dated this 7 September 2012

At The Hague, The Netherlands