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# Presidency and Chambers



The Presidency of the ICC  
Photo: ICC-CPI/Max Koot

## Presidency

The Presidency is one of the four organs of the International Criminal Court, consisting of three of its judges. It is currently composed of President Sang-Hyun Song (Republic of Korea), First Vice President Fatoumata Dembele Diarra (Mali) and Second Vice-President Hans Peter Kaul (Germany). They were elected to the Presidency on 11 March, 2009 by an absolute majority of the judges of the Court for a period of three years.

The Presidency is entrusted with functions in three main areas of responsibility: administration, judicial/legal matters and external relations. The Presidency is responsible for the proper administration of the Court, with the exception of the Office of the Prosecutor. Nonetheless, it coordinates and seeks consensus with the Prosecutor on all matters of mutual concern. Among the Presidency's administrative functions are the managerial oversight of the Registry and ensuring that the Registry delivers effective service to the judiciary. As part of its oversight function, the Presidency provides input into a broad range of administrative policies and issues presidential directives on matters relevant to the Court's overall functioning, such as staff regulations, information security and the Court's trust fund.

The Presidency's responsibilities also include judicial activities and external relations. In the exercise of its judicial functions, the Presidency organises the Chambers' judicial work and carries out its functions as set out in the Statute, Rules of Procedure and Evidence, and Regulations of the Court. Among the Presidency's responsibilities in the area of external relations are the negotiation and conclusion of agreements on behalf of the Court and the promotion of public awareness and understanding of the institution.

The judicial/legal functions of the Presidency are twofold.

First, the Presidency provides support to enable the Chambers to conduct fair, effective and expeditious public proceedings such as constituting and assigning situations to Chambers, organising the plenary sessions and liaising with the Registry. Second, the Presidency has specific legal and judicial functions, including the judicial review of certain decisions of the Registrar; the conclusion of Court-wide cooperation agreements (e.g., bilateral arrangements with States on the enforcement of sentences); and the provision of general legal advice.

In the exercise of its external relations functions, the Presidency represents the Court in its relations with States Parties as well as non-States Parties to the Rome Statute, the United Nations and other international institutions, regional organisations, non-governmental organisations and other external entities. The promotion of public awareness and understanding of the Court, enhancing communication and fostering greater cooperation between the Court and various external partners are among the Presidency's main responsibilities in this field.

## Chambers

The Chambers, organised into Divisions as determined by article 39(1) of the Rome Statute, carry out the judicial functions of the Court. There are three Divisions: the Pre-Trial Division, the Trial Division, and the Appeals Division.

The assignment of judges to Divisions is based on what functions each judge will perform and the qualifications and experience of the judge. This is done in a manner ensuring that each Division benefits from an appropriate combination of expertise in criminal law and procedure and international law. The judges assigned to the Appeals Division serve exclusively in that Division for their entire term of office.



If the Court's workload so requires, and with a view to ensuring efficient management, the Presidency may decide to constitute more than one Pre-Trial or Trial Chamber. It may also decide to attach temporarily a judge of the Trial Division to the Pre-Trial Division and *vice versa*.

From among the members of each Division a President of the respective Division is elected to oversee that Division's administration for a period of one year.

## Pre-Trial Division

The Pre-Trial Division is composed of judges with experience primarily in criminal trials. The judges serve for a period of three years. There are currently three Trial Chambers.

The Pre-Trial Chambers consist of three judges each, although many of the functions of the Chamber may be carried out by a Single Judge. The Presiding Judge of a Chamber is elected by the judges of the Chamber in question.

One of the Pre-Trial Chamber's functions is to grant or deny the Office of the Prosecutor leave to initiate an investigation. It makes a preliminary determination as to whether the case falls within the jurisdiction of the Court without prejudice, however, to subsequent determinations in respect of jurisdiction and admissibility.

Under the Rome Statute, if the decision is based on "interests of justice", the Pre-Trial Chamber may, on its own initiative, at the request of the State making a referral or of the United Nations Security Council, review a decision of the Prosecutor not to initiate an investigation or to prosecute.

It is the mandate of the Pre-Trial Chamber to issue warrants of arrest and summonses to appear before the Court at the request of the Prosecutor, and to guarantee the rights of all persons during the investigation phase. The Pre-Trial Chamber also issues orders to protect the rights of the participants in the proceedings and, where necessary, provides for the protection and privacy of victims and witnesses. It preserves evidence, protects persons who have been arrested or who have appeared in response to a summons, and safeguards information affecting national security.

Within a reasonable time after a suspect has been surrendered to the Court or has appeared voluntarily before the Court, the Pre-Trial Chamber holds a hearing in the presence of the Prosecutor and the suspect and/or his or her counsel with a view to determining whether the charges can be confirmed or not. A confirmation hearing can be held without the suspect being present.

## Trial Division

Most of the Trial Division judges have extensive experience in criminal trials. They serve in this Division for three years and thereafter until the completion of any case if the trial has already begun. There are currently three Trial Chambers.

If the charges are confirmed by the Pre-Trial Chamber, the Presidency constitutes a Trial Chamber to try the case.

The Trial Chamber is composed of three judges, with a Presiding

Judge elected by the judges of the Chamber in question. A Single Judge may also carry out the functions of the Chamber.

The Trial Chamber's primary function is to ensure a fair and expeditious trial, conducted with full respect for the rights of the accused and due regard for the protection of victims and witnesses.

Trials must be held in the presence of the accused and in public, unless special circumstances require that certain proceedings are held in closed session to protect confidential or sensitive information to be given in evidence, and victims and witnesses. The sentence is pronounced in public.

The Trial Chamber determines whether an accused is innocent or guilty of the charges and, if guilt has been determined, it imposes a sentence of imprisonment not exceeding a maximum of thirty years or, in cases of extreme gravity, life imprisonment. Financial penalties may also be imposed. The Trial Chamber may order reparation to victims, including restitution, compensation and rehabilitation.

As indicated above, the Presidency can decide to temporarily attach a judge assigned to the Pre-Trial Division to the Trial Division if the efficient management of the Court's workload so requires, but a judge who has participated in the pre-trial phase of a case can not, under any circumstances, be eligible to sit on the Trial Chamber hearing that case.

## Appeals Division

The Appeals Chamber consists of all five judges of the Appeals Division, out of which the Chamber decides on a Presiding Judge for each appeal.

The Division deals with appeals received from or filed by convicted persons, the Prosecutor, legal representatives of the victims or *bona fide* owners of property adversely affected by Court decisions.

The convicted person may appeal against conviction and sentence. The Prosecutor may appeal against the acquittal or conviction of an accused, or the sentence. Such appeals may be made on the grounds of procedural errors, errors of fact or law and on any other grounds affecting the fairness or reliability of the proceedings or decisions. The Appeals Chamber may reverse or amend the decision on conviction or sentence and may order a new trial before a different Trial Chamber. It may also revise the final judgement of conviction or the sentence.

The Appeals Chamber is also responsible for the review of sentence, i.e., to determine whether, after the person has served two-thirds of the sentence or 25 years in the case of life imprisonment, the sentence should be reduced. If the Appeals Chamber decides not to reduce the sentence, it thereafter reviews the question at least every three years. The Appeals Chamber is finally the body responsible for deciding questions relating to the disqualification of the Prosecutor or a Deputy Prosecutor.

Legal representatives of the victims, the convicted person or bona fide owner of property adversely affected by an order for reparation to victims may appeal against the order. Other decisions made during the course of the proceedings by the Pre Trial Chamber may also be appealed, including decisions with respect to jurisdiction and admissibility.

## Composition of the Divisions and Chambers (as of April 2011)

### Pre-Trial Division

Judge Sylvia Steiner (Brazil), President of Division  
Judge Hans-Peter Kaul (Germany)  
Judge Ekaterina Trendafilova (Bulgaria)  
Judge Sanji Mmasenono Monageng (Botswana)  
Judge Cuno Tarfusser (Italy)  
Judge Silvia Fernández de Gurmendi (Argentina)

### Pre-Trial Chamber I

Situation in Darfur, Sudan, Situation in the Democratic Republic of the Congo and Situation in Libya

Judge Sanji Mmasenono Monageng, Presiding Judge  
Judge Sylvia Steiner  
Judge Cuno Tarfusser

### Pre-Trial Chamber II

Situation in Uganda, Situation in the Central African Republic and Situation in Kenya

Judge Ekaterina Trendafilova, Presiding Judge  
Judge Hans-Peter Kaul  
Judge Cuno Tarfusser

### Pre-Trial Chamber III

Situation in Côte d'Ivoire

Judge Silvia Fernández de Gurmendi, Presiding Judge  
Judge Elizabeth Odio Benito  
Judge Sir Adrian Fulford

### Trial Division

Judge Sir Adrian Fulford (United Kingdom), President of Division  
Judge Fatoumata Dembele Diarra (Mali)  
Judge Elizabeth Odio Benito (Costa Rica)  
Judge Sylvia Steiner (Brazil)  
Judge Bruno Cotte (France)  
Judge Joyce Aluoch (Kenya)  
Judge Christine Van den Wyngaert (Belgium)  
Judge Silvia Fernández de Gurmendi (Argentina)  
Judge Kuniko Ozaki (Japan)  
Judge René Blattmann (Bolivia)

### Trial Chamber I

*The Prosecutor v. Thomas Lubanga Dyilo*

Judge Sir Adrian Fulford, Presiding Judge  
Judge Elizabeth Odio Benito  
Judge René Blattmann

### Trial Chamber II

*The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*

Judge Bruno Cotte, Presiding Judge  
Judge Fatoumata Dembele Diarra  
Judge Christine Van den Wyngaert

### Trial Chamber III

*The Prosecutor v. Jean-Pierre Bemba Gombo*

Judge Sylvia Steiner, Presiding Judge  
Judge Joyce Aluoch  
Judge Kuniko Ozaki

### Appeals Division

Judge Anita Ušacka (Latvia), President of Division  
Judge Sang-Hyun Song (Republic of Korea), President of the Court  
Judge Akua Kuenyehia (Ghana)  
Judge Erkki Kourula (Finland)  
Judge Daniel David Ntanda Nsereko (Uganda)

### Trial Chamber IV

*The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus*

Judge Joyce Aluoch, Presiding Judge  
Judge Fatoumata Dembele Diarra  
Judge Silvia Fernández de Gurmendi

