

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-02/05-03/09
Date: 20 December 2012

THE PRESIDENCY

Before: Judge Sang-Hyun Song, President
Judge Cuno Tarfusser, Second Vice-President
Judge Erkki Kourula, Judge

SITUATION IN THE DEMOCRATIC IN DARFUR SUDAN

**IN THE CASE OF
THE PROSECUTOR *v.* ABDALLAH BANDA ABAKAER NOURAIN *and* SALEH
MOHAMMED JERBO JAMUS**

**Public Document
with Annex**

Decision replacing a judge in the Appeals Chamber

Decision/Order/Judgment 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

Mr Karim A.A. Khan QC

Mr Nicholas Koumjian

Legal Representatives of the Victims

Ms Hélène Cissé

Mr Jens Dieckmann

Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented Applicants

(Participation/Reparation)

**The Office of Public Counsel for
Victims**

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Counsel Support Section

Deputy Registrar

Mr Didier Preira

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

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

NOTING the Decision on the “Defence Application for Leave to Appeal the ‘Decision on the defence request for a temporary stay of proceedings’” in the case of *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus*;¹

NOTING the composition of the Appeals Chamber as set out in article 39(2)(b)(i) of the Rome Statute of the Court Statute (“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 of the Court and four other judges by virtue of article 39(1) of the Statute;

NOTING that, as of 13 March 2012, the Appeals Chamber is composed of Judges Sang-Hyun Song, Sanji Mmasenono Monageng, Akua Kuenyehia, Erkki Kourula and Anita Ušacka;

NOTING the request of Judge Monageng of 14 December 2012 to be excused from exercising her functions as a judge of the Appeals Chamber in the appeal pursuant to article 41 of the Statute and rule 33 of the Rules of Procedure and Evidence (“Rules”) on the basis of her previous involvement in the pre-trial phase of the case, in the course of which she sat on the bench that: a) issued summons to appear² and b) rendered the “Decision on the confirmation of charges” (“Request”);³

NOTING also that, on 17 December 2012, Judge Monageng requested to be excused from the deliberation of the Presidency;⁴ Nothing further the decision of the Presidency on 20 December 2012 granting the latter request to prevent a conflict of interest from arising and treating Judge Monageng as unavailable for the purposes

¹ ICC-02/05-03/09-428.

² ICC-02/05-03-09-1.

³ ICC-02/05-03/09-121-Corr.

⁴ 02/05-03/09, 17 December 2012.

of deliberations of the Presidency on the Request pursuant regulation 11(2) of the Regulations of the Court (“Regulations”);⁵

NOTING the assumption by Judge Kourula, on 20 December 2012, of the responsibilities of Judge Monageng in the Presidency for the purposes of the Request in accordance with regulation 11(2) of the Regulations;⁶

NOTING the decision of the Presidency of 20 December 2012, excusing Judge Monageng from the Appeals Chambers;⁷

CONSIDERING rule 38 of the Rules and regulation 15 of the Regulations providing for the replacement of judges;

HEREBY

DECIDES that the Appeals Chamber shall henceforth be composed as follows:

Judge Sang Hyun Song;

Judge Akua Kuenyehia;

Judge Erkki Kourula;

Judge Anita Ušacka; and

Judge Ekaterina Trendafilova.

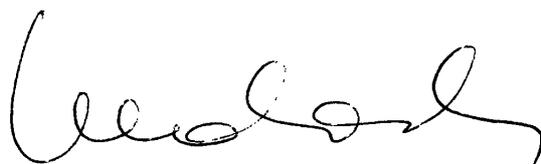
ORDERS the Registrar to file and notify this decision to the relevant participants in the case.

⁵ 2012/PRES/00585-2.

⁶ 2012/PRES/00585-3.

⁷ 2012/PRES/00582-2.

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

A handwritten signature in black ink, appearing to read 'Cuno Tarfusser', with a long, sweeping horizontal stroke at the end.

Judge Cuno Tarfusser
Second Vice-President

Dated this 20 December 2012

At The Hague, Netherlands