



Original: **English**

No.: **ICC-01/04-02/06**

Date: **14 June 2017**

THE PRESIDENCY

Before:
Judge Joyce Aluoch, First Vice-President
Judge Kuniko Ozaki, Second Vice-President
Judge Sanji Mmasenono Monageng

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

IN THE CASE OF
THE PROSECUTOR v. BOSCO NTAGANDA

Public

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
 Ms Nicole Samson

Counsel for Bosco Ntaganda

Mr Stéphane Bourgon
 Mr Christopher Gosnell

Legal Representatives of Victims

Ms Sarah Pellet
 Mr Dmytro Suprun

Legal Representatives of Applicants

**The Office of Public Counsel for
 Victims**

**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 Trial Chamber VI's oral decision of 14 June 2017¹ granting the defence for Mr Bosco Ntaganda leave to appeal the "Decision on Defence request for leave to file a 'no case to answer' motion" issued on 1 June 2017² in the case of *The Prosecutor v. Bosco Ntaganda* ("Ntaganda case"). The Presidency further notes the "Notice of appeal and urgent request for suspensive effect" filed by the defence for Mr Ntaganda on 14 June 2017 ("Appeal").³

The Presidency recalls that, on 21 October 2015, it granted the request of Judge Silvia Fernández de Gurmendi for excusal from all pending and future appeals in the *Ntaganda* case.⁴ The Presidency further recalls that President Fernández de Gurmendi has been excused from the deliberations of the Presidency on her replacement in the Appeals Chamber in previous appeals in the *Ntaganda* case.⁵ On 14 June 2017, following the filing of the Appeal, Judge Sanji Mmasenono Monageng assumed responsibilities as a member of the Presidency for the purpose of deliberating on the replacement of Judge Fernández de Gurmendi for the Appeal.

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

The Presidency recalls that, on 21 October 2015, in accordance with the Presidency's policy of effecting the replacement of a judge by lot from a roster of eligible judges, Judge Fernández de Gurmendi was replaced in the Appeals Chamber by Judge Raul C. Pangalangan for the purpose of an appeal in the *Ntaganda* case.⁶ The Presidency further recalls its policy that a judge already designated by lot may be subsequently designated to sit on other appeals under article 82 of the Rome Statute that arise in the same case.⁷

¹ Transcript not yet publicly available as of the time of issuing the present decision.

² ICC-01/04-02/06-1931.

³ ICC-01/04-02/06-1960.

⁴ ICC-01/04-02/06-925-AnxI.

⁵ Presidency, *The Prosecutor v. Bosco Ntaganda*, "Decision replacing a judge in the Appeals Chamber", 21 October 2015, ICC-01/04-02/06-925; Presidency, *The Prosecutor v. Bosco Ntaganda*, "Decision replacing a judge in the Appeals Chamber", 11 December 2015, ICC-01/04-02/06-1052; Presidency, *The Prosecutor v. Bosco Ntaganda*, "Decision replacing a judge in the Appeals Chamber", 22 September 2016, ICC-01/04-02/06-1529; Presidency, *The Prosecutor v. Bosco Ntaganda*, "Decision replacing a judge in the Appeals Chamber", 12 January 2017, ICC-01/04-02/06-1716.

⁶ ICC-01/04-02/06-925; See also ICC-01/04-02/06-1052, ICC-01/04-02/06-1529 and ICC-01/04-02/06-1716.

⁷ See e.g. Presidency, *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, "Decision replacing two judges in the Appeals Chamber", 18 September 2015, ICC-02/11-01/15-230, p. 4; Presidency, *The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*, "Decision replacing a judge in the Appeals Chamber", 3 June 2016, ICC-01/05-01/13-1922.

The Presidency hereby decides, in the current circumstances, to temporarily attach Judge Pangalangan, currently assigned to the Pre-Trial Division, to the Appeals Chamber for the purpose of the Appeal and/or any request or motion related thereto.

The Presidency hereby decides that the Appeals Chamber shall be composed as follows for the above purpose:

Judge Sanji Mmasenono Monageng

Judge Christine Van den Wyngaert

Judge Howard Morrison

Judge Piotr Hofmański

Judge Raul C. Pangalangan

The Presidency 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.

A handwritten signature in black ink, appearing to read 'J Aluoch', written over a horizontal line.

Judge Joyce Aluoch
First Vice-President

Dated this 14 June 2017

At The Hague, The Netherlands