



Original: **English**

No.: **ICC-02/17**
Date: **25 October 2019**

THE PRESIDENCY

Before: Judge Robert Fremr, First Vice-President
Judge Marc Perrin de Brichambaut, Second Vice-President
Judge Howard Morrison

SITUATION IN THE ISLAMIC REPUBLIC OF AFGHANISTAN

Public with Public Annex
Decision replacing a judge in the Appeals Chamber

To be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

Ms Fatou Bensouda

Ms Helen Brady

Legal Representatives of the Victims

Mr Fergal Gaynor

Ms Nada Kiswanson van Hooydonk

Ms Katherine Gallagher

Ms Margaret L. Satterthwaite

Ms Nancy Hollander

Mr Mikołaj Pietrzak

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

Ms Paulina Massidda

REGISTRY

Registrar

Mr Peter Lewis

Other

Appeals Chamber

THE PRESIDENCY of the International Criminal Court ('Court') notes that on 18 October 2019, Judge Eboe-Osuji filed a request before the *ad hoc* Presidency concerning his participation in the various appeals filed against Pre-Trial Chamber II's 'Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Islamic Republic of Afghanistan' dated 12 April 2019,¹ ('Appeals') in the *Situation in the Islamic Republic of Afghanistan* ('Request for Excusal').

Pursuant to regulation 11(2) of the Regulations of the Court ('Regulations'), Judge Howard Morrison is a member of the Presidency for the purpose of the consideration of the Request for Excusal.

Noting article 41(1) of the Rome Statute ('Statute') whereby '[t]he Presidency may, at the request of a judge, excuse that judge from the exercise of a function under this Statute'.

On 25 October 2019, the *ad hoc* Presidency granted the Request for Excusal (see Annex I).

The Presidency notes 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 of 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. It is further noted that rule 38 of the Rules of Procedure and Evidence ('Rules') provides for the replacement of judges for objective and justified reason, including accepted excuse, and that pursuant to regulation 15 of the Regulations, the Presidency is responsible for the replacement of judges.

Noting the availability and the current and anticipated workload of the judges of the Court, the Presidency hereby decides, pursuant to regulation 12 of the Regulations, to temporarily attach Judge Kimberly Prost, currently assigned to the Trial Division,² to the Appeals Chamber for the purpose of the Appeals and all related matters.

¹ ICC-02/17-33.

² Decision assigning judges to divisions and recomposing Chambers', 16 March 2018, ICC-02/17-30.

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

Judge Piotr Hofmański, Presiding Judge

Judge Howard Morrison

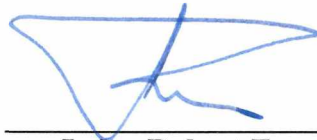
Judge Luz del Carmen Ibáñez Carranza

Judge Solomy Balungi Bossa

Judge Kimberly Prost

The Presidency orders the Registrar to file and notify this decision to the relevant parties and participants in the proceedings.

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



Judge Robert Fremr
Vice-President

Dated this 25 October 2019

At The Hague, The Netherlands