

Annex II



Internal memorandum
Memorandum interne

To À	Judge Eboe-Osuji, President	From De	<i>Ad hoc</i> Presidency	
Date	17 June 2020	Through Via		
Ref.	2020/PRES/00105-02	Copies		
Subject Objet	Decision on your request of 16 June 2020 to be excused from the Presidency			

The *ad hoc* Presidency, composed of Judges Robert Fremr, Marc Perrin de Brichambaut and Antoine Kesia-Mbe Mindua has before it your request of 16 June 2020 in which you seek to be excused from the Presidency's determination of the "Demande de clarification de la Défense concernant la marche à suivre pour engager une procédure en déni de justice du fait du silence opposé pendant huit mois à la requête de Laurent Gbagbo datée du 7 octobre 2019 visant à ce qu'il recouvre l'intégralité de ses droits" (ICC-02/11-01/15-1354-Conf), submitted by the defence for Mr Gbagbo on 28 May 2020.¹

In its request of 28 May 2020, the defence for Mr Gbagbo requests the Presidency of the Court to provide clarification as to the procedure to initiate proceedings for the denial of justice after the Appeals Chamber had, at the time of submission, not rendered a decision on a request of the defence for Mr Gbagbo of 7 October 2019. Considering the fact that you, as President of the Court, were both a member of the Presidency and were also presiding judge in the Appeals Chamber in respect of the request of 7 October 2019, you have requested excusal in order to avoid the evident potential reasonable appearance of a lack of impartiality which arises in view of those dual roles.

Article 41(1) of the Statute provides, that the 'Presidency may, at the request of a judge, excuse that judge from the exercise of a function, under this Statute, in accordance with the Rules of Procedure and Evidence'.

The *ad hoc* Presidency finds that your involvement in, respectively, the Appeals Chamber, having been seized of the request of the defence for Mr Gbagbo of 7 October 2019, and your position as President of the Court, being seized with the current request of 28 May 2020, poses an evident risk of an appearance of a lack of impartiality to determine the latter. Consequently, your request for excusal from

¹ 2020/PRES/00105.

your functions in the Presidency in connection with the request of the defence for Mr Gbagbo of 28 May 2020 is granted.