

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 20 July 2010

THE PRESIDENCY

Before: Judge Sang-Hyun Song, President
Judge Fatoumata Dembele Diarra, First Vice-President
Judge Hans-Peter Kaul, Second Vice-President

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
*THE PROSECUTOR v. THOMAS LUBANGA DYILO***

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
Mr Luis Moreno Ocampo
Ms Fatou Bensouda

Counsel for the Defence
Ms Catherine Mabilie
Mr Jean-Marie Biju Duval

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

The Office of Public Counsel for Victims
Ms Paolina Massidda

**The Office of Public Counsel for the
Defence**
Mr Xavier-Jean Keïta

States Representatives

Amicus Curiae

REGISTRY

Registrar
Ms Silvana Arbia

Defence Support Section
Mr Esteban Peralta Losilla

Deputy Registrar
Mr Didier Preira

Detention Section
Mr Anders Backman

Victims and Witnesses Unit
Ms Maria Luisa Martinod-Jacome

Other
Appeals Chamber

**Victims Participation and Reparations
Section**
Ms Fiona McKay

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

NOTING that in an oral decision dated 15 July 2010, Trial Chamber I granted the Prosecutor’s application for leave to appeal¹ its decision of 8 July 2010 entitled “Decision on the Prosecution’s Urgent Request for Variation of the Time-Limit to Disclose the Identity of Intermediary 143 or Alternatively to Stay Proceedings Pending Further Consultations with the VWU”² (“appeal”);

NOTING the request for excusal filed before the Presidency on 15 July 2010 by Judge Akua Kuenyehia (“Judge”) pursuant to article 41(1) of the Rome Statute of the International Criminal Court (“Statute”) and rule 33 of the Rules of Procedure and Evidence (“Rules”),³ wherein the Judge requested to be excused from sitting in the appeal and in all future appeals in the case of *The Prosecutor v. Thomas Lubanga Dyilo* (“case”) on the basis of her previous involvement in the pre-trial phase of the case, in the course of which she issued a warrant of arrest for, and confirmed the charges against, Mr Thomas Lubanga Dyilo;

NOTING the decision of the Presidency of 16 July 2010 pursuant to article 41 of the Statute, granting the request for excusal in the appeal and in all future appeals in the case on the ground of the Judge’s previous involvement in the case and treating her as unavailable for the purpose of the appeal;⁴

NOTING 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 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;⁵

CONSIDERING rule 38 of the Rules, providing for the replacement of judges;

¹ Urgent Prosecution’s Application for Leave to Appeal the Trial Chamber I’s decision of 8 July 2010 staying the proceedings for abuse of process, ICC-01/04-01/06-2520-Conf, 14 July 2010.

² ICC-01/04-01/06-2517-Conf; ICC-01/04-01/06-2517-Red.

³ Annex I.

⁴ Annex II.

⁵ Following the fourteenth and fifteenth plenary sessions of the judges held on 13 March 2009 and 8 June 2009 respectively, the Appeals Division is composed of Judges Sang-Hyun Song, Akua Kuenyehia, Erkki Kourula, Anita Ušacka and Daniel David Ntanda Nsereko.

CONSIDERING regulation 15 of the Regulations of the Court, pursuant to which the Presidency is responsible for the replacement of judges in accordance with article 39 of the Statute, and regulation 12 of the Regulations of the Court, further to which the Presidency shall, in the event that a member of the Appeals Chamber is disqualified, or unavailable for a substantial reason, attach to the Appeals Chamber on a temporary basis a judge from either the Trial or Pre-Trial Division;

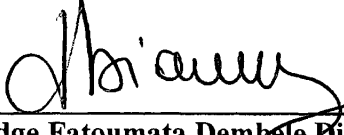
HEREBY DECIDES:

For the purpose of the appeal, to temporarily attach Judge Sanji Mmasenono Monageng, currently assigned to the Pre-Trial Division, to the Appeals Chamber which shall be composed as follows:

Judge Sang-Hyun Song;
Judge Erkki Kourula;
Judge Anita Ušacka;
Judge Daniel David Ntanda Nsereko; and
Judge Sanji Mmasenono Monageng.

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.



Judge Fatoumata Dembele Diarra
First Vice-President

Dated this 20 July 2010

At The Hague, The Netherlands