

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: ICC-01/04-01/10

Date: 15 March 2012

THE PRESIDENCY

Before: Judge Sang-Hyun Song, President
Judge Cuno Tarfusser, Second Vice-President
Judge Akua Kuenyehia, Judge

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

IN THE CASE OF THE PROSECUTOR v. CALLIXTE MBARUSHIMANA

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

Mr Arthur Vercken

Ms Yael Vias-Gvirsman

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

Deputy Registrar

Mr Didier Pereira

Defence Support Section

Mr Esteban Peralta Losilla

Victims and Witnesses Unit

Ms Maria Luisa Martinod-Jacome

**Victims Participation and Reparations
Section**

Ms Fiona McKay

Other

Appeals Chamber

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

NOTING the document in support of appeal filed on 12 March 2012 by the Prosecutor against the “Decision on the Confirmation of charges” (hereinafter “impugned decision”)¹ in the case of *The Prosecutor v. Callixte Mbarushimana* (hereinafter “appeal”);²

NOTING the composition of the Appeals Chamber as set out in article 39(2)(b)(i) of the Rome Statute of the International Criminal Court (“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 Division 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 March 2012 to be excused from exercising her functions as a judge of the Appeals Chamber in the appeal (hereinafter “Request”) pursuant to article 41 of the Rome Statute and rule 33 of the Rules of Procedure and Evidence (hereinafter “Rules”) on the basis of her previous involvement in the pre-trial phase of the case, in the course of which she issued the impugned decision and granted leave to appeal that decision (hereinafter “Request”);³

NOTING also that Judge Monageng, requested to be excused from the deliberations of the Presidency on her Request;⁴ Noting further the decision of the Presidency on 15 March 2012 granting the latter request to prevent a conflict of interest from arising and treating Judge Monageng as unavailable for the purposes of deliberations of the Presidency on the Request pursuant to regulation 11(2) of the Regulations of the Court (hereinafter “Regulations”);⁵

¹ ICC-01/04-01/10-465-Conf.

² Corrigendum to the “Prosecution’s Document in Support of Appeal against the ‘Decision on the Confirmation of Charges’ ” (ICC-01/04-01/10-465-Red), ICC-01/04-01/10-499-Corr, 13 March 2012.

³ Annex I.

⁴ 2012/PRES/133-2.

⁵ 2012/PRES/133-3.

NOTING the assumption by Judge Akua Kuenyehia, on 15 March 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 15 March 2012, excusing Judge Monageng from the Appeals Chamber;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

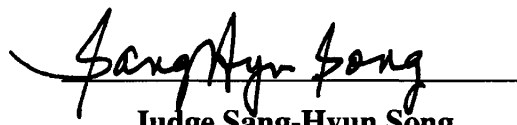
Judge Erkki Kourula

Judge Anita Ušacka

Judge Ekaterina Trendafilova

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

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


Judge Sang-Hyun Song
President

Dated this 15 March 2012

At The Hague, The Netherlands

⁶ 2012/PRES/133-4.

⁷ Annex II.