

ANNEX I

Song, Sang-Hyun

From: Song, Sang-Hyun
Sent: Wednesday, March 21, 2012 9:24 AM
To: Kuenyehia, Akua
Cc: Monageng, Sanji; Tarfusser, Cuno
Subject: Notice of intention to excuse myself from Mbarushimana appeals proceedings

Dear Judge Kuenyehia,

As you are aware, last Thursday you assumed responsibilities in the Presidency in relation to the excusal of Judge Monageng and her replacement in the OA4 appeal in the case of *The Prosecutor v. Callixte Mbarushimana*. It is in this context that I forward you the below email from Judge Trendafilova.

I apologise that I was unable to forward this to you earlier due to my absence from the Court.

I look forward to working with you to address Judge Trendafilova's request.

Kind regards,

Song

From: Trendafilova, Ekaterina
Sent: Friday, March 16, 2012 1:54 PM
To: Song, Sang-Hyun; Monageng, Sanji; Tarfusser, Cuno
Subject: Notice of intention to excuse myself from Mbarushimana appeals proceedings

Dear Members of the Presidency,

On 15 March 2012 the Presidency reached a decision wherein it assigned me to the Appeals Chamber, strictly for the purposes of the Mbarushimana appeal proceedings, thereby replacing Vice President Judge Sanji Monageng.

In readiness of my participation in and whilst reading the documents relating to the said appeal - in particular the Prosecutor's Document in Support of Appeal, dated 12 March 2012 - I realized that the third issue raised in the Prosecutor's application involves an issue with which Pre-Trial Chamber II was seized and has subsequently disposed of. Specifically, this issue was raised in Kenya Case1 (the *Prosecutor v. William Ruto et al.*). Equally, Pre-Trial Chamber II expressed its legal opinion in its confirmation of charges decision, dated and issued on 23 January 2012.

In light of the above, and cognisant of article 41 of the Statute and rules 33 and 35 of the Rules, I find myself compelled to excuse myself from participating in the said appeal. I have always endeavoured to support my colleagues in words and in deeds with respect to their judicial activities. However, mindful of my individual, and our collective duty to preserve and ensure the integrity of proceedings, and specifically the forthcoming said appeal, it would be wholly improper of me not to raise this issue once it became apparent to me.

Best regards,
Ekaterina

3/22/2012