

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/04-01/07
Date: 30 September 2009

THE PRESIDENCY

Before: Judge Sang-Hyun Song, President
Judge Fatoumata Dembele Diarra, First Vice-President
Judge Elizabeth Odio Benito, Acting Second Vice-President

**SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO
IN THE CASE OF
*THE PROSECUTOR v. GERMAIN KATANGA AND MATHIEU NGUDJOLO CHUI***

Public

Decision replacing a judge in Trial Chamber II

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 of Mr Katanga
Mr David Hooper
Mr Andrea O'Shea

Counsel for the Defence of Mr Ngudjolo Chui
Mr Jean-Pierre Kilenda Kakengi Basila
Mr Jean-Pierre Fofé Djofia Malewa

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

The Office of Public Counsel for Victims
Ms Paolina Massida

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar
Ms Silvana Arbia

Defence Support Section
Mr Esteban Peralta Losilla

Deputy Registrar
Mr Didier Preira

Victims and Witnesses Unit
Ms Maria Luisa Martinod-Jacome

Detention Section
Mr Anders Backman

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

Other
Trial Chamber II

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

NOTING the decision of the Presidency of 29 April 2009, temporarily attaching Judge Hans-Peter Kaul to Trial Chamber II;¹

NOTING the request of Judge Hans-Peter Kaul of 5 August 2009 to be excused from exercising his functions as a judge of Trial Chamber II pursuant to article 41 of the Rome Statute (hereinafter “Statute”) and rule 33 of the Rules of Procedure and Evidence (hereinafter “Rules”) on the basis of his workload as Second Vice-President of the Court and as a judge of Pre-Trial Chamber II (hereinafter “Request”);²

NOTING the request of Judge Hans-Peter Kaul of 18 August 2009, in his capacity as Second Vice President, to be excused from the deliberations of the Presidency on the Request;³ Noting further the decision of the Presidency of 18 August 2009 granting that request to prevent a conflict of interest from arising and treating Judge Hans-Peter Kaul as unavailable for the purposes of the Request pursuant to regulation 11(2) of the Regulations of the Court (hereinafter “Regulations”);⁴

NOTING the assumption by Judge Elizabeth Odio Benito, on 25 August 2009, of the responsibilities of Judge Hans-Peter Kaul as Second Vice President for the purposes of the Request in accordance with regulation 11(2) of the Regulations;⁵

NOTING the decision of the Presidency of 30 September 2009, excusing Judge Hans-Peter Kaul from Trial Chamber II;⁶

CONSIDERING that the functions of a Trial Chamber shall normally be carried out by three judges of the Trial Division in accordance with article 39(2)(b)(ii) of the Statute;

¹ Decision replacing a judge in Trial Chamber II, ICC-01/04-01/07-1086.

² Annex I.

³ 2009/PRES/00310-06.

⁴ 2009/PRES/00310-07.

⁵ 2009/PRES/00310-08.

⁶ Annex II.

CONSIDERING rule 38 of the Rules and regulation 15 of the Regulations providing for the replacement of judges;

HEREBY DECIDES that Judge Christine Van den Wyngaert, assigned to the Trial Division,⁷ shall replace Judge Hans-Peter Kaul in Trial Chamber II with effect as of 30 September 2009 and, as such, Trial Chamber II shall be composed from that date on as follows:

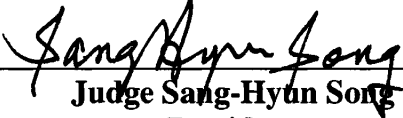
Judge Fatoumata Dembele Diarra;

Judge Bruno Cotte; and

Judge Christine Van den Wyngaert.

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 30 September 2009

At The Hague, The Netherlands

⁷ See Press Release of 19 March 2009 entitled “New composition of ICC judicial divisions”, ICC-CPI-20091911-PR399, available on the website of the Court.