



Internal memorandum
Memorandum interne

To À	The Presidency	From De	Judge Monageng
Date	27 March 2013	Through Via	
Ref.	02/05-03/09 (Banda & Jerbo)	Copies	Judge Kuenyehia (President of the Appeals Division); Hiram Abtahi; Volker Nerlich; Natasha Naidoo
Subject Objet	Request for excusal pursuant to article 41 (1) of the Statute and rule 33 of the Rules of Procedure and Evidence and Request to be excused from the Presidency		

CONFIDENTIAL

A. Request for excusal pursuant to article 41 (1) of the Statute and rule 33 of the Rules of Procedure and Evidence

1. On 21 March 2013, Trial Chamber IV rendered the “Decision on the Defence Application for Leave to Appeal the ‘Decision on the Defence’s Request for Disclosure of Documents in the Possession of the Office of the Prosecutor’”, granting leave to appeal. Pursuant to article 41 (1) of the Statute and rule 33 of the Rules of Procedure and Evidence, I hereby request to be excused from exercising my functions as an Appeals Chamber Judge in this appeal and all future appeals arising in the case against Mr Abdallah Banda Abakaer Nourain and Mr Saleh Mohammed Jerbo.

2. The reasons for my request, as documented in my previous request for excusal dated 14 December 2012¹, revolves around my involvement in the case during the pre-trial phase of the proceedings. I respectfully emphasise that this request should be considered in respect of all future appeals that may arise in this case.

¹ ICC-02/05-03/09-433-Anx.

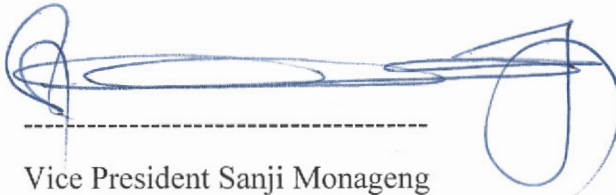
3. Pursuant to rule 33 (2) of the Rules of Procedure and Evidence, I submit this request confidentially. However, I would not object if the Presidency wished to make public this request or the reasons for its eventual decision on this request (second sentence of rule 33 (2) of the Rules of Procedure and Evidence).

B. Request to be excused from the Presidency

4. In addition, I hereby request to be excused from the deliberations of the Presidency on my request to be excused from being a member of the Appeals Chamber, in the appeal to be brought in the case of *Prosecutor vs. Mr Abdallah Banda Abakaer Nourain and Mr Saleh Mohammed Jerbo*, pursuant to Trial Chamber IV's decision of 21 March 2013 and all future appeals arising in this case.

5. My reason for this request is the possible conflict of interest given my position as a member of the Presidency.

Sincerely,



Vice President Sanji Monageng