

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/09-02/11

Date: 8 April 2011

PRE-TRIAL CHAMBER II

Before: Judge Ekaterina Trendafilova, Single Judge

SITUATION IN THE REPUBLIC OF KENYA

IN THE CASE OF

***THE PROSECUTOR v. FRANCIS KIRIMI MUTHAURA, UHURU MUIGAI
KENYATTA AND MOHAMMED HUSSEIN ALI***

Public Document

With a Confidential annex

**Registry report on the execution of the "Decision Ensuring the Rights of the
Defence for the Purposes of the Initial Appearance Hearing (ICC-01/09-02/11-22)**

Source: The Registrar

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor
Luis Moreno-Ocampo, Prosecutor
Fatou Bensouda, Deputy Prosecutor

Counsel for Francis Kirimi Muthaura
Karim Ahmad Khan
Kennedy Ogeto

Counsel for Uhuru Muigai Kenyatta
Steven Kay QC
Gillian Higgins

Counsel for Mohammed Hussein Ali
Evans Monari
Gershom Otachi Bw'omanwa

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar
Ms. Silvana Arbia

Counsel Support Section

Deputy Registrar
Mr. Didier Preira

Detention Section

The Registrar of the International Criminal Court (the "Court")

NOTING the "Decision Ensuring the Rights of the Defence for the Purposes of the Initial Appearance Hearing", rendered by Pre-trial Chamber II on 30 March 2011;¹

NOTING Regulations 23*bis* and 24*bis* of the Regulations of the Court.

CONSIDERING that the Registrar was ordered, by Pre-Trial chamber II, orders the Registrar to inform Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali of their rights under the Statute as soon as practicable upon their arrival in the Host State; [...] to provide the defence with such facilities as may be necessary for the direct performance of their duty; [...] to report to the Chamber as soon as these measures have been implemented².

CONSIDERING the level of confidentiality of the decision of the Pre-Trial Chamber, the Registrar has registered her observations as a public document. However, the Registrar has registered the annexes as confidential as they contain the name of a staff member and location of the accommodation of the persons concerned.

SUBMITS, respectfully, the following information.

Meeting with the persons summoned and their respective Defence teams

1. On 7 April 2011, Mr. Francis Kirimi Muthaura, Mr. Uhuru Muigai Kenyatta and Mr. Mohammed Hussein Ali, in the presence of their respective Defence teams have been met separately by Registry Representatives.

¹ ICC-01/09-02/11-22

² ICC-01/09-02/11-22, page 4

2. At the beginning of the meetings, the Registry Representatives introduced themselves and explained the reasons as to the meeting.

3. Following an introduction by the persons concerned, the Registry Representatives were able to identify Mr. Francis Kirimi Muthaura, Mr. Uhuru Muigai Kenyatta and Mr. Mohammed Hussein Ali. Furthermore, the identities of the persons summoned have been confirmed by their respective Defence teams, some of them have been met by the Registry prior to the meeting of Wednesday 7 April 2011.

4. During the abovementioned meetings the following documents were transmitted to the persons summoned:

- *Decision on the Prosecutor's Application for summonses to Appear for Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali* (ICC-01/09-02/11-01)
- *Dissenting Opinion by Judge Hans-Peter Kaul to Pre-Trial Chamber II's "Decision on the Prosecutor's Application for Summonses to Appear for Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali"* (ICC-01/09-02/11-3)
- *Decision Setting a New Date for the Initial Appearance* (ICC-01/09-02/11-8)
- *Decision Ensuring the Rights of the Defence for the Purposes of the Initial Appearance Hearing* (ICC-01/09-02/11-22)

and they were informed as regards to:

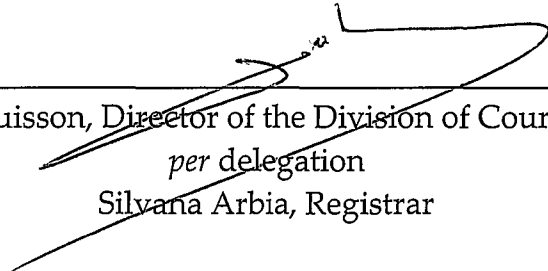
- Specific articles of the Rome Statute: articles 55, 58, 60, 61, 67
- Relevant booklets: Rome Statute – Rules of Procedure and Evidence – Regulations of the Court – Regulations of the Registry – Code of Professional Conduct for Counsel

5. As per the request from the Defence teams, a summary of the specific articles has been explained to the persons summoned, notwithstanding the fact that the three persons summoned have waived their right to have the documents read out to them.

6. The Memorandum of Service, signed by all three persons, indicating which documents were served upon them, is attached as an annex to this present document.

7. During the meetings earlier today, practical questions, such as the entrance to the Court, availability of office space, the seating order inside the Courtroom,... have been raised and were answered by the Registry Representatives in order to fully inform the persons and Defence teams concerned. Also a brief explanation of the proceedings during the hearings was provided.

8. The transmission of the abovementioned documents has been done in English with the consent of the persons concerned.



Marc Dubuisson, Director of the Division of Court Services
per delegation
Silvana Arbia, Registrar

Dated this 8 April 2011

At The Hague, The Netherlands