

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

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

Date: **05/08/2011**

**PRE-TRIAL CHAMBER II**

**Before: Judge Ekaterina Trendafilova, Presiding Judge  
Judge Hans-Peter Kaul  
Judge Cuno Tarfusser**

**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**

**Prosecution's Provision of Information in accordance with the "Decision  
Requesting the Parties to Submit Information for the Preparation of the  
Confirmation of Charges Hearing"**

**Source: Office of the Prosecutor**

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

**The Office of the Prosecutor**

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**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**

**Other**

**REGISTRY**

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**Registrar**

Silvana Arbia

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Didier Preira

**Victims and Witnesses Unit**

**Defence Support Section**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

## I. Introduction

1. Pursuant to the Single Judge's order issued on 20 July 2011<sup>1</sup>, the Prosecution hereby submits that it does not intend to call any live witnesses at the confirmation of charges hearing and will rely on redacted materials, including summaries.

## II. Background

2. The On 8 March 2011, Pre-Trial Chamber II (the 'Chamber'), by majority, decided to summon Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali (collectively, the "suspects") to appear.<sup>2</sup> Pursuant to this decision, the suspects voluntarily appeared before the Court at the initial appearance hearing held on 8 April 2011, during which, *inter alia*, the Chamber set the date for the commencement of the confirmation of charges hearing for 21 September 2011.
3. On 20 April 2011, the Single Judge issued the "Decision on the 'Prosecution's application requesting disclosure after a final resolution of the Government of Kenya's admissibility challenge' and Establishing a Calendar for Disclosure Between the Parties".<sup>3</sup> Three disclosure deadlines were established: 3 June 2011 for evidence collected before 15 December 2010; 24 June 2011 for evidence collected between 15 December 2010 and 31 March 2011; and 29 July 2011 for evidence collected after 31 March 2011.

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<sup>1</sup> ICC-01/09-02/11-181, as detailed *infra*.

<sup>2</sup> "Decision on the Prosecutor's Application for Summons to Appear for Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali", ICC-01/09-02/11-01.

<sup>3</sup> ICC-01/09-02/11-64.

4. On 20 July 2011, the Single Judge requested that the parties indicate, by Friday 5 August 2011, whether they intend to call live witnesses at the confirmation of charges hearing and if so, to submit information detailing the subject matter and the scope of the proposed testimony of each witness.<sup>4</sup> This deadline ensured that the parties and the services involved with the organization of the confirmation hearing such as the Victims and Witnesses Unit, in particular, would be in a position to make the necessary arrangements for the hearing.

### III. Submissions

5. In the absence of any amendment to the Single Judge's decision on 20 July 2011 *vis-à-vis* the Prosecution, the Prosecution hereby provides the information requested by the Single Judge in accordance with the deadline set down therein.
6. In an effort to conduct the hearing in the most efficient and expeditious manner, and in light of the ongoing and persistent concerns related to the security situation in Kenya, the Prosecution indicates that it does not intend to call any live witnesses at the confirmation of charges hearing scheduled to commence on 21 September 2011 provided that, as has been permitted in the case of *Prosecution v. Ruto et al.*,<sup>5</sup> the Prosecution can rely on redacted materials, including summaries.

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<sup>4</sup> ICC-01/09-02/11-181.

<sup>5</sup> ICC-01/09-02/11-01



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Luis Moreno-Ocampo, Prosecutor

Dated this 5th day of August 2011

At The Hague, the Netherlands