

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 24 March 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
Urgent
Decision Pursuant to Regulation 24(1) of the Regulations of the Court**

Decision 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 Mohammed Hussein Ali:
Evans Monari
Gershom Otachi

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

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

States Representatives

Amicus Curiae

Other

REGISTRY

Registrar & Deputy Registrar
Silvana Arbia, Registrar
Didier Preira, Deputy Registrar
Victims and Witnesses Unit

Defence Support Section

Detention Section

**Victims Participation and Reparations
Section**

Other

Judge Ekaterina Trendafilova, acting as Single Judge¹ for Pre-Trial Chamber II (the “Chamber”) of the International Criminal Court, is seized of the “Defence Submissions on the Variations of Summons Conditions for Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali” (the “Defences’ Request”),² renders this decision setting a deadline for a potential response by the Prosecutor.

1. On 8 March 2011, the Chamber, by majority, decided to summon Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali to appear before the Court on 7 April 2011 and ordered them, *inter alia*, “to have no contact directly or indirectly with any person who is or is believed to be a victim or a witness of the crimes for which [...] [they] have been summoned for.”³

2. On 23 March 2011, the counsel for Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali filed a joint submission in which they requested the Chamber to modify the condition referred to in the previous paragraph by way of replacing the word “witness” with the words “prosecution witness”, thereby affirming their right to contact “potential defence witnesses”.⁴

3. The Single Judge notes regulations 24(1) and 34(b) of the Regulations of the Court (the “Regulations”).

4. According to regulation 24(1) of the Regulations, the “Prosecutor[...] may file a response to any document filed by any participant in the case in accordance with the Statute, Rules, these Regulations and any order by the Chamber”. Moreover, pursuant to regulation 34(b) of the Regulations, such response “shall be filed within 21 days of notification in accordance with regulation 31 of the document to which the participant is responding”, unless otherwise ordered.

¹ Pre-Trial Chamber II, “Decision Designating a Single Judge”, ICC-01/09-02/11-9.

² ICC-01/09-02/11-13.

³ Pre-Trial Chamber II, “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, p. 24.

⁴ ICC-01/09-02/11-13, para. 12.

5. Cognizant of the principle of expeditiousness, and considering that the subject-matter of the Defence's Request warrants a prompt resolution, the Single Judge deems it necessary to reduce the time limit provided for in regulation 34(b) of the Regulations, should the Prosecutor wish to respond to the said request.

FOR THESE REASONS, THE SINGLE JUDGE

ORDERS the Prosecutor, should he wish to respond to the Defences' Request, to file his response no later than Monday, 28 March 2011, at 16:00 hours.

Done in both English and French, the English version being authoritative.



Judge Ekaterina Trendafilova
Single Judge

Dated this Thursday, 24 March 2011

At The Hague, The Netherlands