

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 1 July 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**

**Decision on the "Prosecution's request for extension of page limit for the  
Document Containing the Charges"**

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 Francis Kirimi Muthaura**  
Karim Khan and Kennedy Ogetto

**Counsel for Uhuru Muigai Kenyatta**  
Steven Kay and Gillian Higgins

**Counsel for Mohammed Hussein Ali**  
Evans Monari, John Philpot and  
Gershom Otachi Bw'omanwa

**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**

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**Registrar & Deputy Registrar**  
Silvana Arbia, Registrar  
Didier Preira, Deputy Registrar

**Defence Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

**Judge Ekaterina Trendafilova**, acting as Single Judge on behalf of Pre-Trial Chamber II (the “Chamber”) of the International Criminal Court (the “Court”)<sup>1</sup> renders this decision on the “Prosecution’s request for extension of page limit for the Document Containing the Charges” (the “Request”).<sup>2</sup>

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 it.<sup>3</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.<sup>4</sup>

2. 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”, wherein the Prosecutor was ordered, *inter alia*, “to file in the record of the case as soon as possible and no later than **Friday, 19 August 2011** the Document Containing the Charges and the List of Evidence as required by rule 121(3) of the Rules”.<sup>5</sup>

3. On 28 June 2011, the Chamber received the Request, in which the Prosecutor requests “an additional 30 pages to articulate each of the suspects’ roles and actions in sufficient detail”.<sup>6</sup> The Prosecutor asserts that the proposed extension of page limit is warranted “to set forth, in sufficient detail, the relevant facts and circumstances of the crimes [...] along with a description of the evidence in relation to each of the

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

<sup>2</sup> ICC-01/09-02/11-139.

<sup>3</sup> 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.

<sup>4</sup> ICC-01/09-02/11-T-1-ENG.

<sup>5</sup> “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”, ICC-01/09-02/11-64, p. 13.

<sup>6</sup> ICC-01/09-02/11-139, para. 3.

suspects' mode of liability and role in the common plan or in contributing to the commission of the alleged crimes".<sup>7</sup>

4. The Single Judge notes regulation 37(2) of the Regulations of the Court (the "Regulations"), according to which, "[t]he Chamber may, at the request of a participant, extend the page limit in exceptional circumstances".

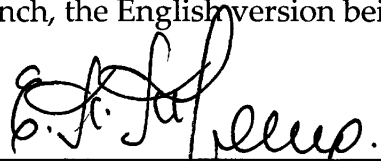
5. The Single Judge is persuaded by the submission of the Prosecutor that the proposed extension of page limit will enable him to present his case in sufficient detail, and will thus allow the Defence "to prepare adequately for the Confirmation Hearing".<sup>8</sup> The Single Judge is also mindful of the fact that the present case involves three suspects, with different modes of liability as well as a complex factual background underlying the alleged crimes.

6. In light of the foregoing, the Single Judge is of the view that the reasons presented by the Prosecutor constitute exceptional circumstances within the meaning of regulation 37(2) of the Regulations and it is therefore reasonable to grant the proposed extension beyond the regular page limit provided for in sub-paragraph 1 of the said regulation.

**FOR THESE REASONS, THE SINGLE JUDGE HEREBY**

**decides to grant the Request.**

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

  
 Judge Ekaterina Trendafilova  
 Single Judge

Dated this Friday, 1 July 2011

At The Hague, The Netherlands

<sup>7</sup> ICC-01/09-02/11-139, para. 3.

<sup>8</sup> ICC-01/09-02/11-139, para. 4.