



Original: English

No.: ICC-01/09-02/11  
Date: 29 March 2012

**THE PRESIDENCY**

**Before:** Judge Sang-Hyun Song, President  
Judge Sanji Mmasenono Monageng, First Vice-President  
Judge Cuno Tarfusser, Second Vice-President

**SITUATION IN THE REPUBLIC OF KENYA  
IN THE CASE OF  
THE PROSECUTOR  
v. FRANCIS KIRIMI MUTHAURA AND UHURU MUIGAI KENYATTA**

**Public**

**Decision referring the case of *The Prosecutor v. Francis Kirimi Muthaura and Uhuru Muigai Kenyatta* to Trial Chamber V**

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

**The Office of the Prosecutor**  
Luis Moreno-Ocampo  
Fatou Bensouda

**Counsel for Mr Francis Kirimi Muthaura**  
Karim Khan  
Essa Faal  
Kennedy Ogetto  
Shyamala Alagendra

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

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## **REGISTRY**

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**Registrar**  
Silvana Arbia

**Deputy Registrar**  
Didier Preira

**Victims and Witnesses Unit**  
Maria-Luisa Martinod-Jacome

**Defence Support Section**  
Esteban Peralta Losilla

**Victims Participation and Reparations  
Section**  
Fiona Mckay

The Presidency of the International Criminal Court (“Court”);

Noting the decision of Pre-Trial Chamber II, dated 26 January 2012, confirming the charges brought by the Prosecutor of the Court against Messrs. Francis Kirimi Muthaura and Uhuru Muigai Kenyatta and committing them for trial (“the decision confirming the charges”);<sup>1</sup>

Noting articles 36, 38 and 39 of the Rome Statute of the International Criminal Court (“Statute”);

Considering article 61(11) of the Statute, pursuant to which the Presidency shall constitute a Trial Chamber once the charges have been confirmed, which shall be responsible for the conduct of subsequent proceedings;

Considering rule 130 of the Rules of Procedure and Evidence of the International Criminal Court (“Rules”), pursuant to which the Presidency shall refer the case to a Trial Chamber and transmit to it the decision confirming the charges and the records of the proceedings of the Pre-Trial Chamber;

Considering the “Decision on the Defence Applications for Leave to Appeal the Decision on the Confirmation of Charges” of 9 March 2012, in which Pre-Trial Chamber II ordered the Registrar to “transmit to the Presidency the Decision on the Confirmation of Charges together with the record of the proceedings in the present case”;<sup>2</sup>

Considering that the record of the proceedings before Pre-Trial Chamber II and the decision confirming the charges were transmitted, by the Registrar, to the Presidency on 13 March 2012, in accordance with rule 129 of the Rules;<sup>3</sup>

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<sup>1</sup> Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute, ICC-01/09-02/11-382-Red.

<sup>2</sup> ICC-01/09-02/11-406.

<sup>3</sup> Transmission to the Presidency of the Decision on the Confirmation of Charges and of the Record of the Proceedings, ICC-01/09-02/11-407.

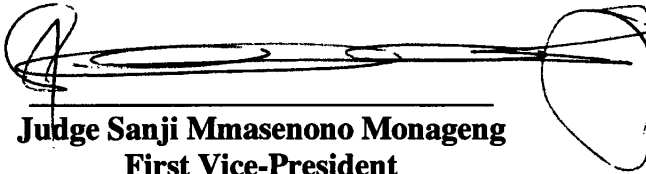
Considering that, by a decision of today's date in the case against Messrs. William Samoei Ruto and Joshua Arap Sang, the Presidency constituted Trial Chamber V consisting of Judges Van den Wyngaert, Ozaki and Eboe-Osuji;

*Hereby* refers the case against Messrs. Francis Kirimi Muthaura and Uhuru Muigai Kenyatta to Trial Chamber V;

*Hereby* transmits the full record of the proceedings before Pre-Trial Chamber II to Trial Chamber V, including the decision confirming the charges; and

*Hereby* orders the Registrar to transmit this decision to all parties and participants in the case.

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



**Judge Sanji Mmasenono Monageng**  
**First Vice-President**

Dated this 29 March 2012

At the Hague, the Netherlands