

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/09

Date: 21 January 2011

PRE-TRIAL CHAMBER II

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

SITUATION IN THE REPUBLIC OF KENYA

Confidential

Ex parte only available to the Registry

With Annexes A and B Confidential ex parte only available to the Registry

Transmission by the Registry of an "Application for Leave to Participate in the Proceedings before the Pre-Trial Chamber relating to the Prosecutor's Application under Article 58(7)" submitted on 20 January 2011

Source: The Registrar

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

The Office of the Prosecutor

Counsel for the Defence

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

Deputy Registrar

Mr Didier Preira

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Ms Charlotte Dahuron-Jacoby

The REGISTRAR of the International Criminal Court (the "Court");

NOTING the *"Prosecutor's Application Pursuant to Article 58 as to Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali"* submitted by the Prosecutor on 15 December 2010 (the *"Prosecutor's Application"*);¹

NOTING rule 13(1) of the Rules of Procedure and Evidence ("RPE"), regulation 23*bis* of the Regulations of the Court ("RoC"), regulation 21(2) of the Regulations of the Registry ("RoR");

CONSIDERING that, on 20 January 2011 at 9h52, the Counsel for Mohammed Hussein Ali (the *"Applicant"*) communicated electronically to the Registry a document referred to as *"APPLICATION FOR LEAVE TO PARTICIPATE IN THE PROCEEDINGS BEFORE THE PRE-TRIAL CHAMBER RELATING TO THE PROSECUTOR'S APPLICATION UNDER ARTICLE 58(7)"* together with an annex containing three powers of attorney;

CONSIDERING that, neither Mr. Mohammed Hussein Ali, nor his counsels are participants in the proceedings;

CONSIDERING that the Prosecutor's Application has recently been filed before the Chamber and that up to date, a decision on the opening or not of a case has not been issued;

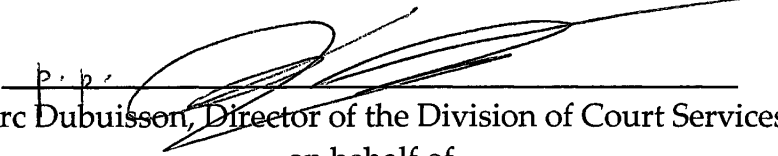
CONSIDERING that, the abovementioned Application cannot be considered as a "document" under regulation 22 of the RoC and regulation 21(2)(b) of the RoR, since it does not emanate from a party or participant in a case or situation before the Court;

¹ ICC-01/09-31-Conf-Exp

CONSIDERING however that this Application seems to be related to the Situation in Kenya under regulation 21 (2)(d) of the RoR;

CONSIDERING also the role of the Registry as the Court's channel of communication under rule 13(1) of the RPE;

TRANSMITS respectfully to the Chamber in annexes A and B, the Application and its annex;


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Marc Dubuisson, Director of the Division of Court Services
on behalf of
Silvana Arbia, Registrar

Dated this 21 January 2011

At The Hague in The Netherlands