

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 21 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**

**Under Seal
*Ex parte, Prosecutor***

Decision Requesting Information and Observations from the Prosecutor

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 the Defence

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

Defence Support Section

Victims and Witnesses Unit

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 (the “Court”) renders this decision requesting information and observations from the Prosecutor.

1. On 8 March 2011, the Chamber by majority, decided that there are reasonable grounds to believe that Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali are criminally responsible for crimes against humanity of murder, forcible transfer, rape, other inhuman acts and persecution, and summoned these three persons to appear before the Court on Thursday, 7 April 2011, at 14.30 hours.²

2. On 18 March 2011, the Chamber issued its decision setting a new date for the initial appearance for Friday, 8 April 2011, at 14.30³.

3. The Single Judge notes articles 57(2)(b), 57(3)(e), 75 and 93(1)(k) of the Rome Statute (the “Statute”) and rule 99 of the Rules of Procedure and Evidence (the “Rules”).

4. According to article 57(3)(e) of the Statute, where a summons to appear has been issued, the Chamber may, having due regard to the strength of the evidence and the rights of the parties concerned, seek the cooperation of States to take protective measures for the purpose of forfeiture, in particular for the ultimate benefit of victims. Further, pursuant to article 93(1)(k) of the Statute, cooperation which may be requested of States includes “the identification, tracing and freezing or seizure of proceeds, property and assets and instrumentalities of crimes for the purpose of eventual forfeiture, without prejudice to the rights of bona fide third parties”.

5. The Single Judge considers that in order to effectively exercise the functions and powers provided in article 57(3)(e) of the Statute and rule 99 of the Rules, it is

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

² Pre-Trial Chamber II, “Decision on the Prosecutor's Application for Summons to Appear for Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali”, ICC-01/09-02/11-1.

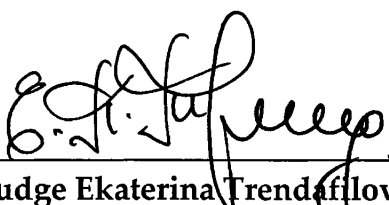
³ Pre-Trial Chamber II, “Decision Setting a New Date for the Initial Appearance”, ICC-01/09-02/11-8.

essential that she receives observations and any relevant information in the Prosecutor's possession, which will assist and enable her to proceed with precision, with respect to any future request(s) for cooperation to be sent to States, in accordance with Part IX of the Statute for protective measures with regard to the financial assets or properties belonging to or under the control of Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali .

FOR THESE REASONS, THE SINGLE JUDGE

requests the Prosecutor to submit, no later than 25 March 2011, 16.00 hours, observations and any information in his possession concerning the nature and whereabouts of the financial assets and properties belonging to or under the control of Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali.

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


Judge Ekaterina Trendafilova
Single Judge

Dated this Monday, 21 March 2011

At The Hague, The Netherlands