



Original: English

No.: ICC-01/09-02/11
Date: 10 August 2011

PRE-TRIAL CHAMBER II

Before: Judge Ekaterina Trendafilova, Presiding Judge
Judge Hans-Peter Kaul, Judge
Judge Cuno Tarfusser, 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 Defence Motion for Extension of Time to File Observations on
Applications to Participate in the Proceedings**

Source: Defence of General Mohammed Hussein Ali

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

The Office of the Prosecutor

Mr. Luis Moreno-Ocampo, Prosecutor
Ms. Fatou Bensouda, Deputy Prosecutor

Counsel for the Defence

Counsel for Francis Kirimi Muthaura:

Karim A.A. Khan QC and Kennedy Ogeto

Counsel for Uhuru Muigai Kenyatta:

Steven Kay QC and Gillian Higgins

Counsel for Mohammed Hussein Ali:

Evans Monari and Gershom Otachi
Bw'Omanwa

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, Registrar

Deputy Registrar

Mr. Didier Daniel Preira, Deputy
Registrar

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations

Other

Introduction

1. On 30 March 2011, the Single Judge issued the “First Decision on Victims’ Participation in the Case,”¹ (“First Decision on Victims’ Participation”) wherein she directed the parties to file observations in regard to the submitted applications for participation in the proceedings as victims within two weeks.
2. On 28 July 2011, the Registry transmitted to the parties the “Second transmission to the parties and legal representatives of redacted applications to participate in the proceedings”² containing 245 applications to participate in the proceedings.
3. The Defence files this motion pursuant to Regulation 35 to seek a minimal variation of the time limit to file observations on the said applications to participate in the proceedings.

Submissions

4. The Defence submits that it is unable to file observations on the applications for participations for victims by 11 August 2011 and therefore unable to comply with the deadline set by the Single Judge in the First Decision on Victims’ Participation. This inability has been occasioned by the high number of applications and disclosures submitted and the need to properly review each individual application and to provide appropriate observations on their suitability as victims.
5. The Defence is further constrained by its limited personnel in its team thus unable to comply with this particular deadline.
6. The Defence submits that the reasons advanced herein constitute “good cause” pursuant to Regulation 35(2) of the Regulations of the Court.

¹ ICC-01/09-02/11-23

² ICC-01/09-02/11-200

Conclusion

7. For the foregoing reasons, the Defence requests for a 5 day extension of time to file its observations.

Respectfully submitted,



Evans Monari and Gershom Otachi Bw'Omanwa
On behalf of Mohammed Hussein Ali

Dated this 10th day of August 2011

At Nairobi, Kenya