

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No.: ICC-01/09-02/11
Date: 19 September 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 with Confidential Annex A

**Defence Request for Protective Measures for One Witness during the
Confirmation of Charges Hearing**

Source: Defence for 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
Ogetto
Counsel for Uhuru Muigai Kenyatta:
Steven Kay QC and Gillian Higgins
Counsel for Mohammed Hussein Ali:
Evans Monari and Gershom Otachi

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 Pereira, Deputy
Registrar

Victims and Witnesses Unit

Counsel Support Section

Detention Section

**Victims Participation and Reparations
Section**

Other

Introduction

1. On 5 September 2011, in accordance with the Single Judge's order of 20 April 2011, the Defence for General Mohammed Hussein Ali (the "Defence") disclosed to the Office of the Prosecutor (the "OTP") its list of evidence which it intends to use for the purpose of the Confirmation of Charges Hearing (the "Hearing"). Within this list, the Defence supplied the Chamber and the OTP with its list of *viva voce* witnesses for the Hearing.

Request

2. The Defence, under Article 57(3)(c) of the Rome Statute and rule 87(1) of the Rules of Procedure and Evidence, hereby submits Confidential Annex A to request that certain protective measure are taken during the Hearing when one witness is called by the Defence to testify. Because of the nature of the information discussed in Annex A, the Defence requests that it is classified Confidential.

Respectfully Submitted,



Two handwritten signatures in black ink. The signature on the left is 'Evans Monari' and the signature on the right is 'Gershom Otachi'.

Evans Monari and Gershom Otachi
On behalf of Mohammed Hussein Ali

Dated this 19th day of September 2011
At The Hague, The Netherlands