



Original: **English**

No.: **ICC-01/09-02/11**
Date: **14 October 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 Public Annex A

Defence Request to have a Corrigendum Filed to Public Transcript ICC-01/09-02/11-T-13-ENG ET WT 03-10-2011

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 Preira, Deputy
Registrar

Victims and Witnesses Unit

Counsel Support Section

Detention Section

**Victims Participation and Reparations
Section**

Other

INTRODUCTION

1. On 13 September 2011, the Single Judge issued the schedule for the Confirmation of Charges Hearing.¹ The Defence Team for General Mohammed Hussein Ali (the “Defence”) was scheduled to begin its response to the Prosecutor and its presentation of evidence on crimes against humanity and mode of liability on 30 September 2011, but because of time delays, the Defence began its presentation on 03 October 2011.²
2. On 10 October 2011, the Defence emailed the Associate Legal Officer to inquire about the proper procedure to correct spoken errors in the court records. The Associate Legal Officers promptly returned the email the next day.

SUBMISSION

3. During the review of the transcript from 03 October 2011, the Defence noticed that a few EVD numbers, pages numbers and one legal decision were misspoken during the Confirmation Hearing. In addition, there are three separate phrases that were placed in quotations that were not direct quotes.
4. Our case manager received the email from the Associate Legal Officer on Wednesday, 12 October 2011 because he was in transit from Europe to Nairobi on Tuesday, 11 October 2011 until the morning of Wednesday, 12 October 2011. After receiving the proper instructions on how to handle these errors, our case manager again reviewed the transcripts for any other major errors and did not find any.

¹ Pre-Trial Chamber II, *The Prosecutor v. Muthaura et al.*, ICC-01/09-02/11-321.

² Pre-Trial Chamber II, *The Prosecutor v. Muthaura et al.*, ICC-01/09-02/11-321-Anx, page 7.

REQUEST

5. The Defence respectfully requests that Pre-Trial Chamber II allow a Corrigendum to transcript ICC-01/09-02/11-T-13-ENG ET WT 03-10-2011 noting the corrected errors listed in Table I of Public Annex A.

Respectfully Submitted,



Evans Monari and Gershom Otachi
On behalf of Mohammed Hussein Ali

Dated this 14th day of October 2011

At Nairobi, Kenya