

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 8 July 2014

TRIAL-CHAMBER V(B)

Before: Judge Kuniko Ozaki, Presiding Judge
Judge Robert Fremr
Judge Geoffrey Henderson

SITUATION IN THE REPUBLIC OF KENYA

**IN THE CASE OF
*THE PROSECUTOR v. UHURU MUIGAI KENYATTA***

**Confidential
Urgent**

Confidential redacted version of the "Third report on the execution of the Request for the Purpose of Securing the Identification, Tracing and Freezing or Seizure of Property and Assets of Francis Kirimi Muthaura and Uhuru Muigai Kenyatta" (ICC-01/09-02/11-654-US-Exp) dated 20 February 2013

Source: The Registry

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

The Office of the Prosecutor

Ms. Fatou Bensouda
Mr. James Stewart
Mr. Benjamin Gumpert

Counsel for the Defence

Mr. Steven Kay QC
Mr. Gillian Higgins

Legal Representatives of the Victims

Mr. Fergal Gaynor

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

Ms. Paolina Massidda

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr. Herman von Hebel

Counsel Support Section

Deputy Registrar

Victims and Witnesses Unit

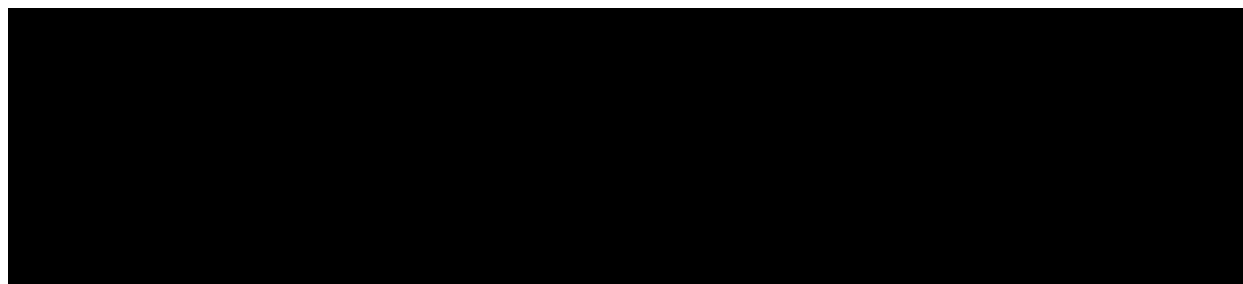
Detention Section

**Victims Participation and Reparations
Section**

Other

The Registry of the International Criminal Court ("the Court"):

NOTING the *"Decision of the Chamber ordering the Registrar to Prepare and Transmit a Request for Cooperation to the Republic of Kenya for the Purpose of Securing the Identification, Tracing and Freezing or Seizure of Property and Assets of Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali"* dated 5 April 2011;¹



NOTING the *"Report on the notification of the Request for the Purpose of Securing the Identification, Tracing and Freezing or Seizure of Property and Assets of Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali"* dated 14 April 2011;³

NOTING the *"Report on the execution of the Request for the purpose of Securing the Identification, Tracing and Freezing or Seizure of Property and Assets of Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali"* dated 7 June 2011;⁴

NOTING the *"Second report on the execution of the Request for the Purpose of Securing the Identification, Tracing and Freezing or Seizure of Property and Assets of Francis Muthaura and Uhuru Muigai Kenyatta"* ("Second Report") dated 25 April 2012;⁵

NOTING articles 87(1)(a) and 93(1)(k) of the Rome Statute and rule 176(2) of the Rules of Procedure and Evidence and regulation 23 *bis* of the Regulations of the Court;

¹ ICC-01/09-02/11-42-US-Exp.

² [REDACTED]

³ ICC-01/09-02/11-58-US-Exp.

⁴ ICC-01/09-02/11-107-US-Exp.

⁵ ICC-01/09-02/11-419-US-Exp.

SUBMITS the following information:

Republic of Kenya

1. The Kenyan authorities replied to the Court, *via* a letter dated 20 February 2012, that in view of the legal questions raised by the request, a committee of experts had been appointed to advise on the execution of the Court's request for the purpose of securing the identification, tracing and freezing or seizure of property and assets of [REDACTED] Uhuru Muigai Kenyatta ("Court's Request").⁶
2. In order to follow up the development of the execution of the Court's Request, the Registry communicated a note verbale to the Kenyan authorities, dated 28 May 2012, reminding that the authorities have been requested to inform the Court, at least every two months, of any seizure of property and freezing of assets⁷.
3. In this note verbale, the Registry also requested the Kenyan authorities to perform the following:
 - to inform the Court of the legal issues which impede the execution of the Court's Request and invite the Office of the Attorney General of the Republic of Kenya to enter into consultation with the Court in this regard.
 - to provide the Court, as soon as possible, with detailed information in relation to the constitution of the committee, the advices made by the committee to date, the time frame for the committee to provide its concluding advices and any other steps which have been taken by the competent authorities to execute the Court's Request.⁸

⁶ ICC-01/09-02/11-419-US-Exp-Anx1.

⁷ ICC-01/09-02/11-42-US-Exp, page 5.

⁸ Annex 2 attached hereto.

4. On 19 June 2012, the Kenyan authorities requested again the Registry to provide all identifying information relating to the relevant property and assets.⁹
5. Accordingly, *via* a note verbale dated 28 December 2012, the Registry transmitted again all necessary information identifying the assets and property belonging to Uhuru Muigai Kenyatta and stressed to the authorities that such information had already been provided to the Kenyan authorities in annex to the note verbale dated 8 April 2012 transmitting the Court's Request¹⁰.
6. In the same note verbale, the Registry again urged the Kenyan authorities to inform the Court of the status of the execution of the Court's Request and to reply to the above-mentioned enquires of the Registry communicated in the reminder dated 28 May 2012. The Registry will continue the follow-up of the execution of the Court's Request by the Kenyan authorities and report to the Chamber on any development in this regard.

⁹ Annex 3 attached hereto.

¹⁰ ICC-01/09-02/11-58-US-Exp-Anx1

¹¹ ICC-01/09-02/11-419-US-Exp, para. 4.

SUBMITS the present report and its annexes classified as under seal *ex parte* only available to the Registry and the Office of the Prosecutor to be in line with the level of confidentiality of the Decision¹² issued by Trial Chamber V;

TRANSMITS in annexes:

- Annex 1: The note verbale of the Registry dated 28 May 2012;
- Annex 2: The note verbale of the Kenyan authorities on 19 June 2012;
- Annex 3: The note verbale of the Registry sent to the Republic of Kenya dated 28 December 2012;

RESPECTFULLY SUBMITTED.



Marc Dubuisson, Director of the Division of Court Services
per delegation of
Herman von Hebel, Registrar

Dated this 8 July 2014

At The Hague, The Netherlands

¹² ICC-01/09-02/11-42-US-Exp [REDACTED]