

PUBLIC REDACTED VERSION
Of
ICC-01/09-02/11-905-US-Exp-Anxl



Reference: NV/2013/3154/ab/ak

CONFIDENTIAL

The Registry of the International Criminal Court presents its compliments to the Embassy of the Republic of Kenya to the Kingdom of the Netherlands and has the honour to request an update on a request for cooperation in the case of *the Prosecutor v. Uhuru Muigai Kenyatta* (ICC-01/09-02/11) for onward transmission to the relevant authorities.

Legal Basis

The present request is based on article 87 (1) (a) and 93 (1) (k) of the Rome Statute.

Background information

On 5 April 2011, Pre-Trial Chamber II issued the *“Decision 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”* (ICC-01/09-02/11-42-US-Exp) (*“the Decision”*).

On 8 April 2011, the Registry sent to the Embassy of the Republic of Kenya a request for cooperation for the identification, tracing and the freezing of assets of Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali (Ref: NV/2011/1041/ior/ab/gb/SA) together with a *“List of alleged property and assets-Uhuru Muigai Kenyatta* (the *“Court request”*).

On 1 February 2012, the Registry asked the Attorney General of the Republic of Kenya to provide any relevant information in his possession concerning the status of the execution of the request for assistance (Ref: NV/2012/1406/ab/ak/SA). The Registry also informed the Attorney General that the request concerning Mr. Mohammed Hussein Ali was not valid anymore as the charges were not confirmed against him.

Embassy of the Republic of Kenya

Kingdom of the Netherlands

Cc: Hon. Githu Muigai

Attorney General of the Republic of Kenya

The Attorney General of the Republic of Kenya informed the Registry, *via* a letter dated 20 February 2012 (Ref: AG/SEC/14/209 VOL I), that due to the nature and complexity of the legal issues raised by the Court's request, a committee of eminent lawyers was constituted to advise on this and other issues relating to the pending cases.

On 28 May 2012, a note verbale was sent (Ref: NV/DCS/2012/125/MD/vw) by the Registry to the Embassy of the Republic of Kenya to the Kingdom of the Netherlands in which it requested to be informed of the legal issues which impeded the execution of the Court request communicated in the Decision. In particular, the Registry requested the Office of the Attorney General to provide detailed information in relation to the constitution of the committee, the advice made by the committee to date, the time frame for the committee to provide its concluding advice and any other steps which have been taken by the competent authorities to execute the Court's request.

On 19 June 2012, the Attorney General sent a note verbale (Ref: AG/SEC/14/209 VOL. II) requesting a list of assets in regard of which the Registry sought identification and seizure.

On 28 December 2012, in response to the letter of the Attorney General of 19 June 2012, the Registry transmitted again to the Office of the Attorney General a "*List of alleged property and assets - Uhuru Muigai Kenyatta*" (Ref: NV/2012/1716/ab/ak/JW). The Registry also requested the Office of the Attorney General to provide the detailed information requested in its note verbale dated 28 May 2012.

On 18 March 2013, Trial Chamber V decided to withdraw the charges against Ambassador Francis Kirimi Muthaura (ICC- 01/09-02/11-696).

As of today, the request for cooperation for the identification, tracing and the freezing of assets is still pending concerning His Excellency Uhuru Muigai Kenyatta.

Subject of the Request

The Registry would like to stress that, pursuant to the Decision dated 5 April 2011, the competent authorities of the Republic of Kenya were requested to inform the Registrar, at least every two months, of any seizure of property and freezing of assets carried out in execution of the Decision.

Accordingly, the Registry would like to kindly request the competent Kenyan authorities to reply to the questions listed in its note verbale dated 28 May 2012 and to provide an update on the efforts undertaken by the competent authorities in 2013 to execute the Court's request for cooperation.

Deadline

The Registry is to file a report to the Chamber by 17 January 2014 and therefore invites the competent Kenyan authorities to send their reply by this date.

Channel of communication

Should the relevant authorities have any questions concerning the present request or require additional information, they are invited to contact [REDACTED]

[REDACTED] or [REDACTED]
[REDACTED]
[REDACTED]

The Registry of the International Criminal Court avails itself of this opportunity to renew to the Embassy of the Republic of Kenya to the Kingdom of the Netherlands the assurances of its highest consideration.



The Hague, 19 December 2013

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Memorandum of notification of

Title	Dated	Registration Number
Note Verbale in the case the Prosecutor v. Uhuru Muigai Kenyatta	19 December 2013	NV/2013/3154/ab/ak

Identity of the recipient :

First name(s) and surname :

Fonction/Title :

Address of the recipient :

Address : P. O. Box 40112 NAIROBI

To be completed by the relevant notifying authority

The above mentioned documents I, _____

Today : _____

At : _____

This record of notification has been prepared by :

First name and surname: Anne-Aurore Bertrand

Position and station: Cooperation Adviser

Signature :

Signature for receipt :

