



Original: English

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

Date: 28 April 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

**The Response of General Mohammed Hussein Ali to the 'Application on Behalf
of the Government of the Republic of Kenya Pursuant to Article 19 of the ICC
Statute'**

Source: Defence

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

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. On 8 March 2011, the Chamber, by majority, decided to summon Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali to appear before the Court on 7 April 2011.¹
2. On 18 March 2011, the Chamber decided that the initial appearance hearing shall be convened on Friday, 8 April 2011 at 14.30 hours.²
3. On 31 March 2011, the Chamber received the "Application on Behalf of the Government of the Republic of Kenya Pursuant to Article 19 of the ICC Statute" (the "Kenyan Application" or the "Application")³.
4. On 4 April 2011, the Single Judge rendered the decision concerning the conduct of the proceedings⁴ whereby the Court requested the Prosecution and the Defence to submit written observations on the Kenyan Application, no later than Thursday 28 April 2011, at 16.00 hours.⁵
5. The Defence of Mohammed Hussein Ali makes no representations with respect to the Application of the Government of Kenya Pursuant to Article 19 of the Rome Statute.
6. The Defence reserves its right to raise legal challenges envisaged under the Statute, including applications pursuant to Article 19 of the Statute.

¹ Pre-Trial Chamber II, "Decision on the Prosecutor's Application for Summonses to Appear for Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali, ICC-01/09-02/11-01.

² Pre-Trial Chamber II, "Decision Setting a New Date for the Initial Appearance", ICC-01/09-02/11-8

³ ICC-01/09-02/11-26.

⁴ Pre-Trial Chamber II, "Decision on the Conduct of the Proceedings Following the Application of the Government of Kenya", ICC-01/09-02/11-40.

⁵ *Id.*, p. 7

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 28th day of April, 2011,
At Nairobi, Kenya.