

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 29 March 2012

THE PRESIDENCY

Before: Judge Sang-Hyun Song, President
Judge Sanji Mmasenono Monageng, First Vice-President
Judge Cuno Tarfusser, Second Vice-President

**SITUATION IN THE REPUBLIC OF KENYA
IN THE CASE OF
THE PROSECUTOR
v. FRANCIS KIRIMI MUTHAURA AND UHURU MUIGAI KENYATTA**

Public

Decision referring the case of *The Prosecutor v. Francis Kirimi Muthaura and Uhuru Muigai Kenyatta* to Trial Chamber V

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

The Office of the Prosecutor
Luis Moreno-Ocampo
Fatou Bensouda

Counsel for Mr Francis Kirimi Muthaura
Karim Khan
Essa Faal
Kennedy Ogetto
Shyamala Alagendra

Counsel for Mr Uhuru Muigai Kenyatta
Steven Kay
Gillian Higgins

REGISTRY

Registrar
Silvana Arbia

Deputy Registrar
Didier Preira

Victims and Witnesses Unit
Maria-Luisa Martinod-Jacome

Defence Support Section
Esteban Peralta Losilla

**Victims Participation and Reparations
Section**
Fiona Mckay

The Presidency of the International Criminal Court (“Court”);

Noting the decision of Pre-Trial Chamber II, dated 26 January 2012, confirming the charges brought by the Prosecutor of the Court against Messrs. Francis Kirimi Muthaura and Uhuru Muigai Kenyatta and committing them for trial (“the decision confirming the charges”);¹

Noting articles 36, 38 and 39 of the Rome Statute of the International Criminal Court (“Statute”);

Considering article 61(11) of the Statute, pursuant to which the Presidency shall constitute a Trial Chamber once the charges have been confirmed, which shall be responsible for the conduct of subsequent proceedings;

Considering rule 130 of the Rules of Procedure and Evidence of the International Criminal Court (“Rules”), pursuant to which the Presidency shall refer the case to a Trial Chamber and transmit to it the decision confirming the charges and the records of the proceedings of the Pre-Trial Chamber;

Considering the “Decision on the Defence Applications for Leave to Appeal the Decision on the Confirmation of Charges” of 9 March 2012, in which Pre-Trial Chamber II ordered the Registrar to “transmit to the Presidency the Decision on the Confirmation of Charges together with the record of the proceedings in the present case”;²

Considering that the record of the proceedings before Pre-Trial Chamber II and the decision confirming the charges were transmitted, by the Registrar, to the Presidency on 13 March 2012, in accordance with rule 129 of the Rules;³

¹ Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute, ICC-01/09-02/11-382-Red.

² ICC-01/09-02/11-406.

³ Transmission to the Presidency of the Decision on the Confirmation of Charges and of the Record of the Proceedings, ICC-01/09-02/11-407.

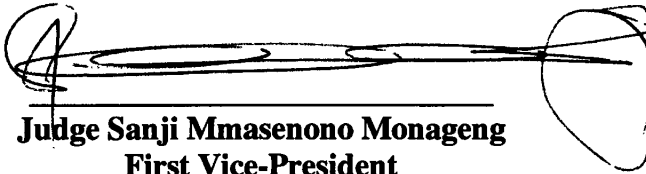
Considering that, by a decision of today's date in the case against Messrs. William Samoei Ruto and Joshua Arap Sang, the Presidency constituted Trial Chamber V consisting of Judges Van den Wyngaert, Ozaki and Eboe-Osuji;

Hereby refers the case against Messrs. Francis Kirimi Muthaura and Uhuru Muigai Kenyatta to Trial Chamber V;

Hereby transmits the full record of the proceedings before Pre-Trial Chamber II to Trial Chamber V, including the decision confirming the charges; and

Hereby orders the Registrar to transmit this decision to all parties and participants in the case.

Done in both English and French, the English version being authoritative.



Judge Sanji Mmasenono Monageng
First Vice-President

Dated this 29 March 2012

At the Hague, the Netherlands