

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 30 March 2011

PRE-TRIAL CHAMBER II

Before: Judge Ekaterina Trendafilova, Single 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 Document

**Decision Ensuring the Rights of the Defence for the Purposes of the Initial
Appearance Hearing**

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

The Office of the Prosecutor

Luis Moreno-Ocampo, Prosecutor
Fatou Bensouda, Deputy Prosecutor

The Defence

Francis Kirimi Muthaura
Uhuru Muigai Kenyatta

Counsel for the Defence

Evans Monari and Gershom Otachi
Bw'omanwa for Mohammed Hussein Ali

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

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

States Representatives

Amicus Curiae

Other

REGISTRY

Registrar & Deputy Registrar

Silvana Arbia, Registrar
Didier Preira, Deputy Registrar

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Judge Ekaterina Trendafilova, acting as Single Judge¹ on behalf of Pre-Trial Chamber II (the “Chamber”) of the International Criminal Court (the “Court”) renders this decision ensuring the rights of the defence for the purposes of the initial appearance hearing.

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 Thursday, 7 April 2011 at 14.30 hours.²

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.³

3. The Single Judge notes articles 60(1) and 67 of the Rome Statute (the “Statute”), rule 20 of the Rules of Procedure and Evidence (the “Rules”), and regulation 186 of the Regulations of the Registry (the “RoR”).

4. According to article 60(1) of the Statute, upon the person’s appearance before the Court pursuant to a summons, the Pre-Trial Chamber “shall satisfy itself that the person has been informed of the crimes which he or she is alleged to have committed, and of his or her rights under the Statute”.

5. Pursuant to rule 20 of the Rules, the Registrar is responsible, *inter alia*, for providing support, assistance, and information to all defence counsels appearing before the Court. The Registrar is also responsible for providing the defence with such facilities as may be necessary for the direct performance of their duty. Some of these facilities are set out in regulation 186(2)(b) of the RoR, which should apply *mutatis mutandis* to a person who appears before the Court pursuant to a summons to appear.

¹ Pre-Trial Chamber II, “Decision Designating a Single Judge”, ICC-01/09-02/11-9.

² 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, p. 23.

³ Pre-Trial Chamber II, “Decision Setting a New Date for the Initial Appearance”, ICC-01/09-02/11-8.

6. The Single Judge therefore considers that, in order to preserve the rights of the defence and the principle of fairness, the Registrar shall take all the appropriate steps to inform the three persons of their rights under the Statute and to set up the necessary facilities to enable the defence to properly prepare for the initial appearance hearing.

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

orders the Registrar to inform Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali of their rights under the Statute as soon as practicable upon their arrival in the Host State;

orders the Registrar to provide the defence with such facilities as may be necessary for the direct performance of their duty;

orders the Registrar to report to the Chamber as soon as these measures have been implemented.

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



Judge Ekaterina Trendafilova
Single Judge

Dated this Wednesday, 30 March 2011

At The Hague, The Netherlands