

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 05 September 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 with CONFIDENTIAL ANNEXES

**Disclosure of Evidence Pursuant to Rule 121(4) of the Rules of Procedure and
Evidence**

Source: Defence for Major General Mohammed Hussein Ali

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 Pereira, Deputy
Registrar

Victims and Witnesses Unit

Counsel Support Section

Detention Section

**Victims Participation and Reparations
Section**

Other

INTRODUCTION

1. On 20 April 2011, the Single Judge set the regime for disclosure in the case of *The Prosecutor v. Muthaura et al.* In accordance with rule 121(4) of the Rules of Evidence and Procedure, the Single Judge ordered that the Defence disclose any evidence in which it intends to rely upon for the purposes of the Confirmation of Charges hearing (the "Hearing") no later than fifteen days before the Hearing.¹
2. In compliance with this order, the Defence Team for Major General Mohammed Hussein Ali hereby submits its List of Evidence in which it intends to rely upon at the Hearing and its detailed Analysis Chart. The Defence requests that the attached Annexes A and B be received by the Single Judge as "Confidential" as they contain information of a sensitive nature not currently available to the public and/or were obtained from persons requesting confidentiality from the public.

¹ Pre-Trial Chamber II, *The Prosecutor v. Muthaura et al.*, 'Decision on the "Prosecution's application requesting disclosure after a final resolution of the Government of Kenya's admissibility challenge" and Establishing a Calendar for Disclosure Between the Parties', ICC-01/09-02/11-64, para. 22.



Evans Monari
On behalf of Mohammed Hussein Ali

Dated this, 5th September 2011

At

The Hague, The Netherlands