

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/09-02/11
Date: 2 December 2014

TRIAL CHAMBER V(B)

Before: Judge Kuniko Ozaki, Presiding Judge
Judge Robert Fremr
Judge Geoffrey Henderson

SITUATION IN THE REPUBLIC OF KENYA

**IN THE CASE OF
*THE PROSECUTOR v. UHURU MUIGAI KENYATTA***

Public redacted version of
“Registry’s submission pursuant to the “Order concerning the public disclosure of
confidential information” (ICC-01/09-02/11-967) dated 21 October 2014”
(ICC-01/09-02/11-972-US-Exp)

Source: The Registry

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

The Office of the Prosecutor

Ms Fatou Bensouda
Mr James Stewart
Mr Benjamin Gumpert

Counsel for Uhuru Muigai Kenyatta

Mr Steven Kay
Ms Gillian Higgins

Legal Representative of Victims

Mr Fergal Gaynor

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

The Office of Public Counsel for Victims

Ms Paolina Massida

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

THE REGISTRY of the International Criminal Court (the “Court”):

NOTING 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 Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali”* (the “Request to Kenya”) issued by Pre-Trial Chamber II on 5 April 2011;¹

[REDACTED]²

NOTING the *“Order concerning the public disclosure of confidential information”* (the “Order”) issued by Trial Chamber V(B) (the “Chamber”) on 21 October 2014;

NOTING articles 87 and 93(1)(k) of the Rome Statute and rule 176(2) of the Rules of Procedure and Evidence and regulation 23 *bis* of the Regulations of the Court;

CONSIDERING that the Chamber, in the Order, reclassified as public of the following documents: ICC-01/09-02/11-42-Conf, ICC-01/09-02/11-910-Conf, ICC-01/09-02/11-931-Conf, ICC-01/09-02/11-931-Conf-Anx, ICC-01/09-02/11-934-Conf-Red, ICC-01/09-02/11-963-Conf and ICC-01/09-02/11-T-31-CONF;³

CONSIDERING that the Chamber, in the Order, also ordered the Registry, pursuant to Regulation 23 *bis* (3) of the Regulations of the Court, to request reclassification of any related documents as necessary;⁴

CONSIDERING that the Registry has submitted five reports on the notification and the execution of the Request to Kenya {REDACTED} referenced ICC-01/09-02/11-58-

¹ ICC-01/09-02/11-42.

² [REDACTED]

³ ICC-01/09-02/11-967, pages 8 and 9.

⁴ *Ibid*, page 9.

US-Exp, ICC-01/09-02/11-107-US-Exp, ICC-01/09-02/11-419-US-Exp, ICC-01/09-02/11-654-US-Exp and ICC-01/09-02/11-905-Conf (the “Five Registry Reports”);

SUBMITS respectfully to the Chamber as follows:

1. [REDACTED]^{5 6}
2. In relation to the fifth report of the Registry ICC-01/09-02/11-905-Conf, considering that most of the information contained therein has not been known to the public (except for paragraph three in this report which has been referred to in the Order), the Registry is also of the opinion that this report and its annexes should remain as confidential.
3. The Registry is however ready to submit public redacted version of four out of the Five Registry Reports⁷ and their annexes (except for the annexes which are the communication between the Registry [REDACTED] should it be ordered by the Chamber, applying redactions to the following information:
 - Information which should remain under seal due to the reference to [REDACTED];
 - Information regarding the communication between the Registry and Kenyan authorities , unless its disclosure to the public is agreed upon by the Kenyan authorities after consultation to be in line with the diplomatic practice as implemented by the Registry regarding its communication with all States;
 - Identifying information of the staff of the Registry and the official of the Kenyan authorities in the annexes to the Five Registry Reports. [REDACTED]
4. Accordingly, should it be ordered by the Chamber, the Registry will consult with the Kenyan authorities on the disclosure to the public of all

⁵ [REDACTED]

⁶ [REDACTED]

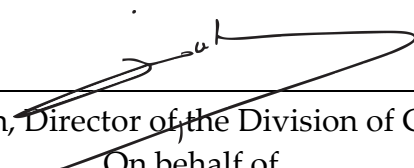
⁷ The Registry does not consider the submission of public redacted version of its report ICC-01/09-02/11-107-US-Exp would be meaningful considering the amount of information which needs to be redacted.

communications between the Registry and the Kenyan authorities and request the authorities to provide justifications should they refuse such a disclosure.

5. In the event that the disclosure of all communications between the Registry and the Kenyan authorities is refused by the Kenyan authorities, the Registry will then not be in a position to submit the public redacted version of any of the Registry Five Reports in light of the amount of information which would need to be redacted.

SUBMITS the present filing as under seal *ex parte* only available to the Registry and the Prosecution in order to be in line with [REDACTED] pursuant to regulation 23 *bis* (2) of the Regulations of the Court;

RESPECTFULLY SUBMITTED,



Marc Dubuisson, Director of the Division of Court Services
On behalf of
Herman von Hebel, Registrar

Dated this 2 December 2014

At The Hague, The Netherlands