



Original: **English**

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

Date: 04 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. WILLIAM SAMOEI RUTO, HENRY KIPRONO KOSGEY
AND JOSHUA ARAP SANG

PUBLIC

Defence Request for Extension of Time

Source: Defence for Mr. Joshua Arap Sang

Document 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

Counsel for the Defence

Counsel for William Samoei Ruto:
Kioko Kilukumi Musau, Joseph
Kipchumba Kigen-Katwa and Kithure
Kindiki
Counsel for Henry Kiprono Kosgey:
George Odinga Oraro, Julius Kemboy
and Allan Kosgey
Counsel for Joshua Arap Sang:
Joseph Kipchumba Kigen-Katwa, Joel
Kimutai Bosek and Philemon K.B. Koech

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

Counsel Support Section

Deputy Registrar

Mr. Didier Daniel Pereira, Deputy
Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. Pursuant to regulation 35 (1) of the Regulations of the Court, the Defence respectfully requests that the Honourable Pre-Trial Chamber extend the deadline for responding to the Chamber's 'Decision Pursuant to Regulation 24(1) of the Regulations of the Court' (the Order),¹ until 4pm Tuesday 5 April 2011.
2. At 2.45pm today (Monday 4 April 2011), counsel was alerted to the fact that the Honourable Pre-Trial Chamber had issued the Order that the Defence respond to the Observations of the Registry concerning the linguistic capability of Mr. J. Sang.
3. Although the Order appears to have been sent to the email address of counsel's office, the Defence have verified that the office did not receive the court document. Moreover, counsel for the co-defendants also did not receive this email, notwithstanding the fact that their email addresses appear to have been included within the notification page. The Defence were also not aware of the observations of Registry prior to Monday 2.45pm.
4. Regulation 24(1) of the Regulations of the Court enshrines the right of the defence to respond to any document filed by a participant. Whilst the Chamber possesses the power to vary any deadlines, the deadline imposed must nonetheless ensure that the right to respond on such a fundamental issue is effective and not illusory.
5. It is not possible for the Defence to consult with Mr. J. Sang and prepare a meaningful response to the observations of the Registry by 4pm 4 April 2011.
6. The Defence further observes that the normal deadline for filing a response (21 days) was significantly shortened in the present case (since the deadline for filings issued on a Friday does not commence to run until the next working day, the time allocated to respond is effectively zero days), at a time when counsel and client were in transit, and have been occupied with important logistical arrangement for the initial appearance.
7. The Defence is of course appreciative of the fact that the Chamber may need to render a preliminary determination of this issue in order to make suitable arrangement for the

¹ ICC-01/09-01/11-21.

initial appearance. The Defence nonetheless respectfully submits that the requested extension of the deadline is extremely modest and will enable the Chamber to render a decision before the initial appearance.

Relief Requested

8. For the reasons set out above, the Defence respectfully requests the Honourable Pre-Trial Chamber to extend the deadline for the Defence response until 4pm Tuesday 5 April 2011.



Joseph Kipchumba Kigen-Katwa
On behalf of Joshua Arap Sang

Dated this Monday, 4 April 2011

At The Hague, The Netherlands