



Original: **English**

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

Date: **7 June 2011**

**PRE-TRIAL CHAMBER II**

**Before:** Judge Ekaterina Trendafilova, Presiding Judge  
Judge Hans-Peter Kaul  
Judge Cuno Tarfusser

**SITUATION IN THE REPUBLIC OF KENYA**

***IN THE CASE OF THE PROSECUTOR V. WILLIAM SAMOEI RUTO, HENRY  
KIPRONO KOSGEY AND JOSHUA ARAP SANG***

**Public Document**

**Prosecution's Request for Extension of Time to Submit Observations on 59  
Applications for Victims' Participation in the Proceedings**

**Source:** Office of the Prosecutor

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

**The Office of the Prosecutor**

**Counsel for the Defence**

Mr. Kioko Kilukumi Musau, Mr. Joseph Kipchumba Kigen-Katawa, Mr. David Hooper QC, Mr. Kithure Kindiki, Mr. George Odinga Oraro, Mr. Julius Kipkosgei Kemboy, Mr. Allan Kosgey, Mr. Joel Kimutai Bosek and Mr. 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**

Ms. Paolina Massida

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

**States' Representatives**

Sir Geoffrey Nice QC  
Rodney Dixon

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Ms. Silvana Arbia

**Deputy Registrar**

Mr. Didier Preira

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

## I. Introduction

1. On 30 March 2011 Pre-Trial Chamber II (“the Chamber”) rendered its First Decision on Victims’ Participation in the Case (“First Decision”), requesting that the parties provide their observations on redacted versions of victim applications. The Decision also shortened the time period within which to submit observations, requiring the parties to submit their observations within two weeks of receipt of notification.<sup>1</sup>
2. On 17 May 2011, the Registry transmitted its “First transmission to the Pre-Trial Chamber of Applications to Participate in the Proceedings”.<sup>2</sup> On the next day, the Registry transmitted 59 applications to the parties.<sup>3</sup> Therefore, the Prosecution’s observations to the 59 applications were due on 1 June 2011.
3. Pursuant to Regulation 35(2) of the Regulations of the Court, the Prosecution seeks, on an exceptional basis, an extension of the time limit for filing its observations, submitting that the Trial Attorney was unable to file the application within the time limit for reasons outside her control. The Prosecution requests an extension until 08 June 2011 to file its observations.

## II. Submissions

4. The Prosecution acknowledges that it received the notification of the 59 applications on 18 May 2011. Upon receipt, the Prosecution Team applied the standard three week deadline that generally applies pursuant to Regulation 34, and noted that the Prosecution’s observations would be due on 8 June 2011. Although not submitted as an excuse, the Trial Attorney, Cynthia Tai was out of the country for an extended period of time due to personal reasons. Regardless, she takes full responsibility for the actions of her staff.

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<sup>1</sup> ICC-01/09-01/11-17

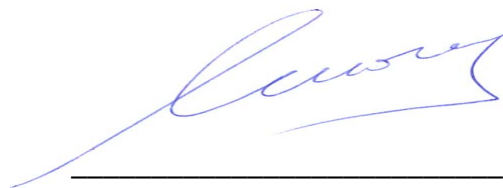
<sup>2</sup> ICC-01/09-01/11-91

<sup>3</sup> ICC-01/09-01/11-92

5. On 06 June 2011, the Trial Attorney became aware of the incorrect date calendared for the Prosecution's observations.
6. This omission was outside of this Trial Attorney's control due to unexpected personal issues and a resource shortage. Given the disclosure obligations and a variety of filings, it is difficult if not impossible to meet all deadlines when an unexpected event intervenes. The Trial Attorney is seeking to correct this issue. Further, she is revisiting best practices to ensure that this oversight does not occur again.
7. The Prosecution apologizes to the Chamber for this oversight and seeks an extension until the 08 June 2011 to submit the Prosecution's observations. Although the Prosecution is aware that any extension of time should ordinarily be sought prior to the expiry of a deadline, the Prosecution requests that the requested extension be granted on an exceptional basis, because of the short extension requested and the absence of any prejudice to the Defence.<sup>4</sup>
8. Based on a cursory review of the 59 applications and in light of the Prosecution's policy regarding the participation of victims and witnesses, the Prosecution does not believe that it will submit lengthy or substantial objections in its observations.

### **III. Relief sought**

9. The Prosecution seeks an extension until 1 June 2011 to 8 June 2011 to submit its observations.



**Luis Moreno-Ocampo, Prosecutor**

Dated this 7th Day of June 2011

At The Hague, The Netherlands

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<sup>4</sup> ICC-01/04-01/07-522 OA3, 27 May 2008, paras. 11-12.