

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 14 July 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
With Public Annexes A-B**

**Prosecution's Communication to the Defence of Incriminating Evidence
pursuant to Article 61(3)(b)**

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

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Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims

The Office of Public Counsel for the Defence

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Defence Support Section

Detention Section

Victims Participation and Reparations Section

Other

1. The Prosecution hereby submits its communication of evidence in preparation for the confirmation hearing pursuant to Article 61(3)(b) of the Rome Statute. This material is related to a recent witness interview and was collected after 1 July 2011.

I. Procedural History

2. On 7 April 2011, the Single Judge rendered the “Decision Setting the Regime for Evidence Disclosure and Other Related Matters” (the “First Decision”), establishing the modalities according to which the parties would execute disclosure.¹
3. On 20 April 2011, the Single Judge issued the “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” (“the Second Decision”).² In the Second Decision, the Single Judge ordered that, *inter alia*, the Prosecution shall submit to the Chamber, by 8 July 2011, properly justified proposals for redactions with respect to the evidence collected after 31 March 2011.³
4. On 1 July 2011, the Prosecution sought an extension of the deadline for requesting redactions to documents collected after 31 March 2011.⁴ On 4 July 2011, the Single Judge granted the Prosecution until 13 July 2011 to submit properly justified proposals for redactions, if any, to the transcripts of recently conducted witness interviews, and any other witness related materials collected after 1 July 2011 (“the Third Decision”).⁵

¹ ICC-01/09-01/11-44.

² ICC-01/09-01/11-62.

³ ICC-01/09-01/11-62, paras. 19-20, p. 12.

⁴ ICC-01/09-01/11-155-Red.

⁵ ICC-01/09-01/11-161, p. 6.

5. In compliance with these Decisions, the Prosecution herewith submits its communication of disclosure to the Defence of incriminating evidence which was collected after 1 July 2011 and which constitutes witness related material.⁶ This disclosure is accompanied by (i) a list of incriminating evidence that identifies recipients for each evidentiary item and reflects the access and level of confidentiality of each item (Annex A), and (ii) an analysis of each piece of incriminating evidence reflecting its relevance (Annex B).
6. Additionally, in compliance with its autonomous duties established by Article 61(3) of the Statute and Rule 121(2)(c) and (3), the Prosecution provided a copy of the evidence to each of the Defence teams on 13 July 2011.



Luis Moreno-Ocampo
Prosecutor

Dated this 14th day of July 2011

At The Hague, The Netherlands

⁶ This material was collected on 11 July 2011. It was not collected from a witness, but was collected following review of a recent witness interview.