

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 15 August 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 Annex A and Confidential Annex B

**Prosecution's Amended Document Containing the Charges and List of Evidence
submitted pursuant to Article 61(3) and Rules 121(3), (4) and (5)**

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 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

Ms. Paolina Massidda

States Representatives

Amicus Curiae

Sir Geoffrey Nice QC

Mr. Rodney Dixon

REGISTRY

Registrar

Defence Support Section

Ms. Silvana Arbia

Deputy Registrar

Mr. Didier Pereira

Victims and Witnesses Unit

Detention Section

Ms. Maria Luisa Martinod-Jacome

Victims Participation and Reparations Section

Other

1. The Prosecution hereby submits its amended Document Containing the Charges (“DCC”) and List of Evidence, pursuant to Article 61(3) of the Rome Statute and Rules 121(3), (4) and (5) of the Rules of Procedure and Evidence (“the Rules”).
2. Pursuant to Rules 121(4) and (5), the Prosecution may amend the DCC and List of Evidence no later than 15 days before the date of the hearing on the amended charges.
3. The amended DCC is contained in Annex A. The only amendment is to paragraph 97. It previously stated “20,000 IDPs from Nandi Hills town sought refuge in Kisii” and has been amended to state “IDPs from Nandi Hills town also sought refuge in Kisii.”
4. The amended List of Evidence is contained in Annex B. It contains the following amendments¹:
 - It contains parallel citations using EVD numbers provided by the Registry instead of the Prosecution’s Evidence Registration Numbers (“ERN”).
 - Three sources that were not disclosed in this case were removed (“KEN-OTP0046-0372 at 0401, 0402 paras. 240-241” at page 79; “KEN-OTP-0006-1312 at 1322-1323” at p. 148; “KEN-OTP-0042-0228 at 0247 lines 657-680” at page 207).
 - The same sentence changed in the DCC has been changed in the List of Evidence, at page 145.
 - Typographical errors have been fixed at:
 - Page 60 (“KEN-OTP-0045-0035” replaced by “KEN-OTP-0045-0039”)

¹ Note: the page numbers are based on the amended List of Evidence included in Annex B, which has different pagination from the original List of Evidence due to the addition of columns showing the EVD numbers.

- Page 62 (“KEN-OTP-0001-1075” replaced by “KEN-OTP-0046-0079”)
- Page 72 (“KEN-OTP-0001-1075” replaced by “KEN-OTP-0001-1076”)
- Page 95 (“KEN-OTP-0028-1082” replaced by “KEN-OTP-0028-1104”)
- Page 95 (“KEN-OTP-0028-1082” replaced by “KEN-OTP-0028-1040”)
- Page 160 (“KEN-OTP-0059-0334 at 0348” replaced by “KEN-OTP-0052-0786 at 0799” – same source but only the latter was disclosed)
- Page 162 (“KEN-OTP-0059-0334 at 0348” replaced by “KEN-OTP-0052-0786 at 0799” – same source but only the latter was disclosed)
- Page 163 (duplicate citations consolidated)
- Page 167 (“KEN-OTP-0028-1082” replaced by “KEN-OTP-0028-1104”)
- Page 169 (“KEN-OTP-0028-1082” replaced by “KEN-OTP-0028-1040” twice)
- Page 207 (“KEN-OTP-0694” replaced by “KEN-OTP-0052-0694”)
- Erroneous citation removed at page 217 (“KEN-OTP-0029-1548”)

Request for Confidentiality

5. The Prosecution requests that Annex B be received by the Single Judge as “Confidential” because it contains information of a sensitive nature not currently available to the public and/or which was obtained from confidential sources.



Luis Moreno-Ocampo,
Prosecutor

Dated this 15th day of August 2011

At The Hague, The Netherlands