

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No.: ICC-01/09

Date: 21 December 2010

**PRE-TRIAL CHAMBER II**

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

**SITUATION IN THE REPUBLIC OF KENYA**

**Confidential**

**Ex parte only available to the Registry**

**Transmission by the Registry of an application communicated by Katwa &  
Kemboy Advocates , Commissioners for oaths on behalf of Applicant William  
Ruto**

**Source: Registry**

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**

**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

**Deputy Registrar**

Mr Didier Preira

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

**The REGISTRAR of the International Criminal Court (the "Court");**

**NOTING** the *"Prosecutor's Application Pursuant to Article 58 as to William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang"* submitted by the Prosecutor on 15 December 2010 (the *"Prosecutor's Application"*);<sup>1</sup>

**NOTING** Rule 13(1) of the Rules of Procedure and Evidence ("RPE"), Regulation 23bis of the Regulations of the Court ("RoC"), Regulation 21(2) of the Regulations of the Registry ("RoR");

**CONSIDERING** that, on 8<sup>th</sup> December 2010 at 08h06 AM, Mr. Joseph Kipchumba Kigen-Katwa communicated to the Registry a document, in hard copy, referred to as "APPLICATION FOR LEAVE TO SUBMIT OBSERVATIONS PURSUANT TO RULE 103 OF THE RULES OF PROCEDURE AND EVIDENCE" together with a bulky annex (the *"Application"*);

**CONSIDERING** that the Registry informed Mr. Joseph Kipchumba Kigen-Katwa that the Application will be registered in the record of the Situation and transmitted to the Pre-Trial Chamber II (the *"Chamber"*) upon receipt of the electronic version of the Application;

**CONSIDERING** that, after several attempts, the Law Firm transmitted, on Saturday 18 December 2010 at 11h33, the electronic version of the Application and its annexes;

**CONSIDERING** that, neither Mr. Joseph Kipchumba Kigen-Katwa, nor the Law Firm he represents are participants in the proceedings;

---

<sup>1</sup> ICC-01/09-30-Conf-Exp

**CONSIDERING** that the Prosecutor's Application has only recently been filed before the Chamber and that, therefore a decision on the opening or not of a case has up to date not been issued;

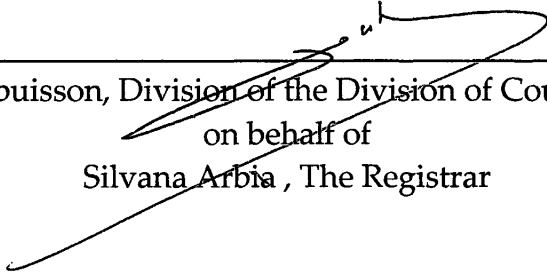
**CONSIDERING** that, the above mentioned Application cannot be considered as a "document" under Regulation 22 of the RoC and Regulation 21(2)(b) of the RoR, since it was not filed, nor emanated from a party or participant in a case or situation before the Court;

**CONSIDERING** however that this Application seems to be related to the Situation in Kenya under Regulation 21 (2)(d) of the RoR;

**CONSIDERING** also the role of the Registry as the Court's channel of communication under Rule 13(1) of the RPE;

**TRANSMITS** respectfully to the Chamber in annexes A and B, the Application and its annexes communicated, with considerable difficulty, on 18<sup>th</sup> December 2010 by Mr. Joseph Kipchumba Kigen-Katwa on behalf of the Law Firm Katwa and Kemboy Advocates, Commisioners for Oaths;

**SUBMITS**, under Regulation 23*bis* of the RoC, the present document and its annexes as confidential, ex parte Registry only.



---

Marc Dubuisson, Division of the Division of Court Services  
on behalf of  
Silvana Arbia , The Registrar

Dated this 21 December 2010

At The Hague in The Netherlands.