

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 29 March 2011

**PRE-TRIAL CHAMBER II**

**Before: Judge Ekaterina Trendafilova, Single 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**

**Transmission of Motion submitted by the legal representatives of seven  
applicants for participation in proceedings**

**Source: Registry**

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

**The Office of the Prosecutor**

Luis Moreno-Ocampo  
Fatou Bensouda  
Cynthia Tai

**Counsel for the Defence**

Joseph Kipchumba Kigen-Katwa  
Kioko Kilukumi Musau  
George Odinga Oraro

**Legal Representatives of the Victims**

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**  
Liesbeth Zegved

**The Office of Public Counsel for  
Victims**

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

**States' Representatives**

**Amicus Curiae**

**REGISTRY**

---

**Registrar**

Silvana Arbia

**Counsel Support Section**

**Deputy Registrar**

Didier Preira

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

Fiona McKay

**Other**

**The Registrar of the International Criminal Court (the “Court”);**

**NOTING** the Decision on the Prosecutor’s Application for Summons to Appear for William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang;<sup>1</sup>

**NOTING** the Decision Designating a Single Judge;<sup>2</sup>

**NOTING** the Chamber’s Decision on Victim Participation in Proceedings Related to the Situation in the Republic of Kenya;<sup>3</sup>

**NOTING** the First Periodic Report of the Registry on the activities of the Victims Participation and Reparations Section in the Situation in the Republic of Kenya;<sup>4</sup>

**CONSIDERING** that the Registry has received a number of applications for participation in proceedings, some of which appear to be linked to the present case;

**CONSIDERING** that the Registry has received a Motion to Participate in Article 60 Initial Appearance Proceedings from legal representatives representing seven applicants for participation in proceedings;

**TRANSMITS** to the Single Judge the legal representatives’ Motion to Participate.

---

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

<sup>2</sup> ICC-01/09-01/11-6.

<sup>3</sup> ICC-01/09-24.

<sup>4</sup> ICC-01/09-49.

## Background

1. On 8 March 2011 the Chamber issued its Decision on the Prosecutor's Application for Summons to Appear for William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang.<sup>5</sup> In that Decision the Chamber ordered the named persons to appear before the Court on Thursday, 7 April 2011 at 9.30 hours for the purposes of a hearing to be held pursuant to article 60 of the Statute and rule 121(1) of the Rules of Procedure and Evidence.
2. On 24 March 2011 the Registry received correspondence from Ms Liesbeth Zegveld, one of a group of lawyers representing applicants for participation in the Kenya situation. The correspondence enclosed a document entitled Motion to Participate in Article 60 Initial Appearance Proceedings ("the Motion") which Ms Zegveld requests that the Registry transmit to the Chamber. The Motion is included as the Annex to the present filing.
3. The Registry notes that the Motion appears to be drafted for filing in the Situation in the Republic of Kenya, and not in the record of a specific case. However despite this the content of the Motion makes clear that its intention is to support the presentation of views and concerns relating to the case of *The Prosecutor v William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang*, and in particular at the first appearance hearing in that case which has been scheduled for 7 April 2011. It is for this reason that the Registry makes the present filing in the record of the case.

## The applications for participation

4. The Motion is said to be submitted on behalf of seven applicants with the following reference numbers: a/0041/10, a/0042/10, a/0045/10, a/0046/10, a/0051/10, a/0056/10, and a/0064/10 ("the seven applicants").

---

<sup>5</sup> ICC-01/09-01/11-1.

5. Applications from applicants a/0041/10, a/0042/10, a/0045/10, a/0046/10 and a/0051/10 were received by the Registry on 23 December 2009. Applications from applicants a/0056/10 and a/0064/10 were received by Registry staff on mission in Kenya on 15 December 2009 and delivered to the Hague on 18 December 2009.<sup>6</sup>
6. The Registry notes that each of the seven applicants submitted a standard application form for reparations. These applicants are among a larger group represented by Ms Zegveld and others, who submitted applications for reparations.
7. In its Decision on Victim Participation in Proceedings Related to the Situation in the Republic of Kenya, the Chamber made clear that “unless victims explicitly indicate their wish to participate in the proceedings, the VPRS shall treat these applications as presented merely for the purposes of reparations.”<sup>7</sup> Subsequently the Registry received from Ms Zegveld a signed and witnessed “Victim’s Declaration of Request to Participate in ICC Proceedings” from some of Ms Zegveld’s clients.

### **The Registry’s observations on the applications**

8. The Registry has reviewed the applications in accordance with the Chamber’s Decision on Victim Participation in Proceedings Related to the Situation in the Republic of Kenya. Based on this review the Registry observes that one of the seven applicants (a/0046/10):
  - has not submitted a Declaration of Request to Participate in ICC Proceedings, or in any other way explicitly indicated a wish to participate in the proceedings; and
  - alleges that he suffered harm as a result of events which occurred outside the geographical areas covered by the Chamber’s Decision on the Prosecutor’s

---

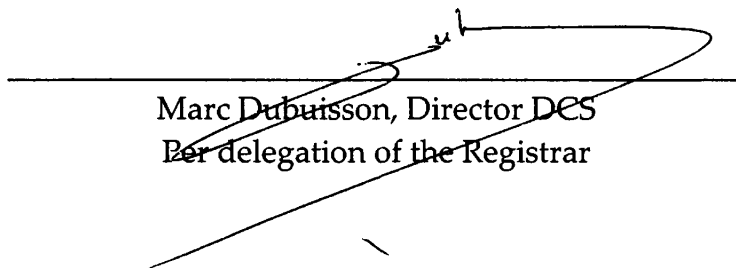
<sup>6</sup> The Registry also notes that the seven applicants were among a larger group of approximately 500 applicants on behalf of whom a representation under article 15(3) was submitted in December 2009: ICC-01/09-17-Conf-Exp-Anx393.

<sup>7</sup> ICC-01/09-24, paragraph 18.

Application for Summons to Appear for William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang, and does not appear to the Registry to be linked to the present case.

9. The Registry therefore considers that only six of the applications mentioned by Ms Zegveld in the Motion (a/0041/10, a/0042/10, a/0045/10, a/0051/10, a/0056/10 and a/0064/10) appear to indicate an explicit wish to participate in proceedings and to be linked to the case.
10. Finally, the Registry notes that while the Motion is signed by Ms Zegveld alone, its notifications table lists the following as "Legal Representatives of the Victims": Ms. Prof. Dr. Liesbeth Zegveld, Prof. Dr. Göran Sluiter, and Mr. Mbuthi Gathenji. The Registry draws to the Single Judge's attention that all seven applicants list their legal representatives as Liesbeth Zegveld, Mbuthi Gathenji, Arthur Igeria and Boniface Njiru. All four of the latter counsel are included in the Registry's list of counsel. To the Registry's knowledge Göran Sluiter has not been formally appointed (whether by power of attorney or mention in an application form) as the legal representative of any applicant for participation in proceedings.
11. Should the Single Judge so require, the Registry stands ready to:
  - (a) transmit the seven applications to the Single Judge, together with a report thereon, in accordance with regulation 86(5) of the Regulations of the Court, and to include in such a report any analysis or assessment required by the Single Judge;
  - (b) prepare appropriately redacted versions of the seven applications in order to transmit them to the Prosecutor and defence for their observations; and/or

(c) provide further information regarding any other aspect of the Motion or the seven applications.



Marc Dubuisson, Director DCS  
Per delegation of the Registrar

Dated this 29 March 2011

At The Hague, the Netherlands