

**Annex 4**

**Information document distributed to counsel on 17 June 2011**



## INFORMATION FOR COUNSEL

### COMMON LEGAL REPRESENTATIVES FOR VICTIMS IN THE KENYA CASES

#### Background

On 30 March 2011 Single Judge Trendafilova ordered the ICC Registry to prepare for the common legal representation of victims in the confirmation of charges proceedings scheduled for September 2011 in the cases of *The Prosecutor v William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang* and *The Prosecutor v Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali*.<sup>1</sup>

Under the Rome Statute victims (persons who suffered harm as a result of the crimes alleged in a case before the ICC) may participate in ICC proceedings. Under rule 90 of the ICC's Rules of Procedure and Evidence, where a number of victims participate, the Chamber may request the Registry to choose a common legal representative or representatives.

The Registry therefore seeks expressions of interest from counsel interested in seeking appointment as common legal representative in *one or other* of the two cases in the Kenya situation. The Registry will not recommend that the same counsel be appointed to represent victims in both cases.

#### Role of common legal representatives of victims

A lawyer appointed as common legal representative during pre-trial proceedings is expected to undertake all work required to represent participating victims, in accordance with the ICC's legal texts and jurisprudence, most relevantly article 68 of the Rome Statute and rules 91 to 93 of the Rules of Procedure and Evidence. This work includes leading a legal team which makes appearances, files written submissions, and maintains communication with the victims represented.

#### Duration of appointment

The appointment of a common legal representative resulting from the present process would be expected to last for the duration of pre-trial proceedings. Full time work in The Hague would be required during the confirmation of charges hearing. These hearings are currently scheduled to run for 2 to 3 weeks, from 1 September 2011 (*The Prosecutor v Ruto et al*) and 21 September 2011 (*The Prosecutor v Muthaura et al*).

Should charges be confirmed a subsequently appointed Trial Chamber may wish to appoint new common legal representatives or may decide to maintain those appointed by the Pre-Trial Chamber. Trial proceedings (including preparation for trial, trial hearings, appeals, reparations) may potentially continue for several years. The Registry therefore requests applicants to consider their long-term availability.

<sup>1</sup> First Decision on Victims Participation on Victims' Participation in the Case, issued in each of *The Prosecutor v William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang* (ICC-01/09-01/11-17) and *The Prosecutor v Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali* (ICC-01/09-02/11-23), paragraph 24.

## Remuneration

Legal aid may be available for victims who lack the necessary means to pay for a legal representative. Where victim clients are indigent, a common legal representative and members of his/her team are remunerated for certain work undertaken according to fixed rates through the ICC Registry. More information on the ICC legal aid scheme can be obtained on the web site of the Court and from the Counsel Support Section ([css@icc-cpi.int](mailto:css@icc-cpi.int)).

## Minimum requirements

In order to practice before the Court, including as a common legal representative of victims, a lawyer must first be admitted to the List of Counsel maintained by the Registrar under rule 21(2) of the Rules of Procedure and Evidence. The requirements for admission to the List of Counsel include:

- Fluency in at least one of the working languages of the Court (English and French);
- Established competence in international or criminal law and procedure and at least 10 years of relevant experience in criminal proceedings.<sup>2</sup>

Counsel must be free of serious criminal or disciplinary convictions and be prepared to comply fully with the ICC's Code of Professional Conduct for counsel.<sup>3</sup> More information on admission to the List of Counsel is available on the ICC website at <http://www.icc-cpi.int/Menus/ICC/Structure+of+the+Court/Defence/Counsel/>

Counsel expressing interest in this role are expected to have familiarized themselves with the work involved, including by reference to the ICC's legal texts and jurisprudence, the Code of Professional Conduct for counsel, and other available documents such as the Manual for legal representatives produced by the Office of Public Counsel for Victims (<http://www.icc-cpi.int/iccdocs/PIDS/publications/OPCVManualEng.pdf>).

## Selection criteria

The Registry will assess candidates expressing interest in appointment as common legal representative of victims by reference to the following criteria:

- (1) Pre-established relationship of trust with victims eligible to participate in the case, or factors demonstrating a capacity for such a relationship
- (2) Experience working with victims or other vulnerable persons
- (3) Familiarity/connection with the situation country
- (4) Particular expertise in international criminal law and/or relevant litigation experience, preferably in international criminal proceedings or proceedings involving large groups of victims;
- (5) Sufficient availability
- (6) Information technology skills

As the victims to be represented are likely to speak English, Swahili and/or local Kenyan languages, the Registry will prefer candidates able to work in English. Knowledge of other languages spoken in Kenya would be an asset.

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<sup>2</sup> Rule 22, Rules of Procedure and Evidence; regulation 67, Regulations of the Court.

<sup>3</sup> Resolution ICC-ASP/4/Res.1

### **Procedure for application and selection**

Lawyers interested in being appointed as common legal representative for victims in *one or other* of the Kenya cases should submit an expression of interest which includes the following:

- An up to date *curriculum vitae*;
- A statement against the selection criteria demonstrating how the candidate meets the identified criteria;
- An indication of which of the two cases the candidate would wish to act in;
- Any other relevant information which the candidate believes should be made known to the Registry, for example regarding potential conflicts of interest.

Expressions of interest should be submitted to the Victims Participation and Reparations Section in the ICC Registry by **17.30 Central European Time, 1 July 2011**, using the following email address: [vprs@icc-cpi.int](mailto:vprs@icc-cpi.int) .

Questions on this process can likewise be sent to [vprs@icc-cpi.int](mailto:vprs@icc-cpi.int) .