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Court

ICC-PIDS-CIS-KEN-01-001/11\_Eng  
Updated: 7 April 2011

# Case Information Sheet

## Situation in the Republic of Kenya

*The Prosecutor*

*v.*

*William Samoei Ruto, Henry  
Kiprono Kosgey and Joshua Arap Sang*

Case n° ICC-01/09-01/11



### William Samoei Ruto (Ruto)



Date of birth	21 December 1966
Place of birth	Kamagut village, Kenya
Nationality	Kenyan
Official position	Currently a suspended Minister of Higher Education, Science and Technology of the Republic of Kenya
Summons to appear	8 March 2011
Initial appearance hearing	7 April 2011

Confirmation of charges hearing Scheduled for 1 September 2011

#### Charges

Pre-Trial Chamber II found reasonable grounds to believe that Ruto, together with Kosgey, is criminally responsible as an indirect co-perpetrator pursuant to article 25(3)(a) of the Rome Statute for the crimes against humanity of:

- murder (article 7(l)(a));
- forcible transfer of population (article 7(l)(d)); and
- persecution (article 7(l)(h)).

### Henry Kiprono Kosgey (Kosgey)



Date of birth	14 July 1947
Place of birth	Nandi district, Kenya
Nationality	Kenyan
Official position	Currently Member of Parliament (MP) and Chairman of the Orange Democratic Movement (ODM)
Summons to appear	8 March 2011
Initial appearance hearing	7 April 2011

Confirmation of charges hearing Scheduled for 1 September 2011

#### Charges

Pre-Trial Chamber II found reasonable grounds to believe that Kosgey, together with Ruto, is criminally responsible as an indirect co-perpetrator pursuant to article 25(3)(a) of the Rome Statute for the crimes against humanity of:

- murder (article 7(l)(a));
- forcible transfer of population (article 7(l)(d)); and
- persecution (article 7(l)(h)).

## Joshua Arap Sang (Sang)



Date of birth	9 September 1975
Place of birth	Kitale, Trans-Nzoia District, Kenya
Nationality	Kenyan
Official position	Currently the head of operations at Kass FM in Nairobi, the Republic of Kenya
Summons to appear	8 March 2011
Initial appearance hearing	7 April 2011
Confirmation of charges hearing	Scheduled for 1 September 2011

### Charges

Pre-Trial Chamber II found that there are not reasonable grounds to believe that Sang is an indirect co-perpetrator, because his contribution to the commission of the crimes was not essential. Instead, the Chamber was satisfied that there were reasonable grounds to believe that Sang otherwise contributed (within the meaning of article 25(3)(d) of the Rome Statute) to the commission of the following crimes against humanity:

- murder (article 7(l)(a));
- forcible transfer of population (article 7(l)(d)); and
- persecution (article 7(l)(h)).

## Alleged crimes (non-exhaustive list)

Pre-Trial Chamber II found that there are reasonable grounds to believe that:

- Immediately after the announcement of the results of the presidential election and specifically from 30 December 2007 until the end of January 2008, an attack was carried out in locations including Turbo town, the greater Eldoret area (encompassing Huruma, Kiambaa, Kimumu, Langas, and Yamumbi), Kapsabet town and Nandi Hills town, in the Uasin Gishu and Nandi Districts, the Republic of Kenya. The attack allegedly targeted the civilian population, namely the Kikuyu, Kamba and Kisii ethnic groups, which were perceived as Party of National Unity (PNU) supporters. .
- In particular, the violence in the Uasin Gishu District (encompassing Turbo town and the Eldoret area) allegedly resulted in 1,475 houses burned and destroyed, approximately 230 people dead, 505 people injured and 7,800 people displaced. In the Nandi District (encompassing Kapsabet town and Nandi Hills town), the attack allegedly ended in the death of 7 persons and the injury of more than 500. A number of houses and business premises were also looted and burned. The perpetrators left three people dead on 8 January 2008 in Kapsabet town and killed others in the vicinity of the roadblocks erected about two kilometers from Kapsabet town. About 32,000 persons were allegedly forced to seek refuge at Nandi Hills police station and in the surrounding areas.
- Allegedly, there was a plan to punish PNU supporters in the event that the 2007 presidential elections were rigged, which allegedly aimed at expelling them from the Rift Valley, with the ultimate goal of creating a uniform Orange Democratic Movement (ODM) voting block. In order to implement the plan agreed upon, Ruto, Kosgey and Sang allegedly established a network of perpetrators belonging to the Kalenjin community. This network comprised eminent ODM political representatives, representatives of the Media, former members of the Kenyan police and the army, Kalenjin elders as well as local leaders. The network was allegedly under responsible command and had an established hierarchy, with Ruto as leader, Kosgey as deputy leader and treasurer and Sang as the one responsible for communicative purposes. The network possessed the means to carry out a widespread or systematic attack against the civilian population, as its members had access to and utilised a considerable amount of capital, guns, crude weapons and manpower.
- **William Ruto**, in his capacity as the most representative Kalenjin leader and head of the organisation established – together with Kosgey, who was Ruto’s deputy, the ODM Chairman, and the MP for Tinderet constituency – provided essential contributions to the implementation of the common plan by way of organising and coordinating the commission of widespread and systematic attacks that meet the threshold of crimes against humanity, in the absence of which the plan would have been frustrated. William Ruto allegedly: (i) overall planned and was responsible for the implementation of the common plan in the entire Rift Valley; (ii) created a network of perpetrators to support the implementation of the common plan; (iii) directly negotiated or supervised the purchase of guns and crude weapons; (iv) gave instructions to the perpetrators as to who they had to kill and displace and whose property they had to destroy; and (v) established a rewarding mechanism with fixed amounts of money to be paid to the perpetrators upon the successful murder of PNU supporters or destruction of their properties.
- **Henry Kiprono Kosgey**, allegedly (i) promoted, together with Ruto, the creation of the network of perpetrators; (ii) actively organised the modalities of the implementation of the common plan, in his capacity as Ruto’s deputy; and that (iii) he was responsible for the implementation of the common plan in the Nandi District. Moreover, Kosgey was allegedly in charge of managing the financial resources of the organisation for the purpose of implementing the common plan; and (iv) broadcasting false news regarding alleged murder(s) of Kalenjin people in order to inflame the atmosphere.

- **Joshua Arap Sang**, by virtue of his influence in his capacity as a Kass FM radio broadcaster, allegedly contributed in implementation of the common plan by: (i) placing Kass FM at the disposal of the organisation; (ii) advertising the organisation's meetings; (iii) fanning violence by spreading hate messages and explicitly revealing a desire to expel the Kikuyus; and (iv) broadcasting false news regarding alleged murder(s) of Kalenjin people in order to inflame the violent atmosphere.

## Key judicial developments

### Opening of the investigation

On 5 November 2009, the ICC Prosecutor notified the President of the Court of his intention to submit a request for authorisation to start an investigation into the situation in Kenya pursuant to article 15(3) of the Rome Statute, in regard to the 2007-2008 post-election violence in Kenya, in which approximately 1300 people were allegedly killed.

On 6 November 2009, the Presidency of the Court assigned the situation to Pre-Trial Chamber II, composed of Judge Ekaterina Trendafilova (presiding judge), Judge Hans-Peter Kaul and Judge Cuno Tarfusser.

On 31 March 2010, Pre-Trial Chamber II granted, by majority, the Prosecution's request to open an investigation into alleged crimes against humanity in Kenya. The investigation covers crimes against humanity committed between 1 June 2002 (the date of the Rome Statute's entry into force for Kenya) and 26 November 2009 (the date the Prosecutor's filed the request for authorisation to start the investigation).

### Summonses to appear and initial appearance hearing

On 15 December 2010, the ICC Prosecutor requested Pre-Trial Chamber II of the ICC to issue summonses to appear for six Kenyans on the basis that there existed reasonable grounds to believe that they were criminally responsible for crimes against humanity.

On 8 March 2011, Pre-Trial Chamber II, by majority, issued the decisions on the applications submitted by the Prosecutor and summoned William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang to appear before the Court on 7 April 2011.

On 31 March 2011, the Government of Kenya filed an application challenging the admissibility of the case before the ICC.

At the initial appearance hearing, that took place on 7 April 2011, the Chamber scheduled the confirmation of charges hearing on 1 September 2011.

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### Composition of Pre-Trial Chamber II

Judge Ekaterina Trendafilova, Presiding Judge  
Judge Hans-Peter Kaul  
Judge Cuno Tarfusser

### Representation of the Office of the Prosecutor

Luis Moreno-Ocampo, Prosecutor  
Fatou Bensouda, Deputy Prosecutor

### Defence Counsel for William Ruto Samoei

David Hooper  
Kioko Kilukumi Musau  
Joseph Kipchumba Kigen-Katwa  
Kithure Kindiki

### Defence Counsel for Henry Kiprono Kosgey

George Odinga Oraro  
Julius Kipkosgei Kemboy  
Allan Kibet Kosgey

### Defence Counsel for Joshua Arap Sang

Joseph Kipchumba Kigen-Katwa  
Joel Kimutai Bosek  
Philemon Kiptum Koech-Busienei



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