



Original: **English**

No.: **ICC-01/09-01/11**  
Date: **1 November 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**

**Prosecution's Application to File Additional Authority**

**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**

Mr. Luis Moreno-Ocampo, Prosecutor  
Ms. Fatou Bensouda, Deputy Prosecutor

**Counsel for the Defence**

Mr. Kioko Kilukumi Musau, Mr. Joseph Kipchumba Kigen-Katwa, 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 the Victims**

Ms. Sureta Chana

**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**

**Other**

**REGISTRY**

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**Registrar**

Ms. Silvana Arbia

**Deputy Registrar**

Mr. Didier Preira

**Defence Support Section**

**Victims and Witnesses Unit**

**Detention Section**

1. On 30 September 2011, the Prosecution filed the “Prosecution’s Written Submissions Following the Hearing on the Confirmation of Charges” in this case.<sup>1</sup> Among the points argued was its position that it is legally permissible to charge multiple counts arising out of the same criminal acts. See ‘Cumulative charging and the crime of persecution’, paras. 86-95.
2. Subsequent to that filing, on 7 October 2011 the *Procuración General de la Nación* of the Republic of Argentina issued an official legal opinion intended to guide the action of federal prosecutors in charge of cases involving past large-scale human rights violations. That opinion, in the Prosecution’s submission, is relevant to this issue.
3. Pursuant to Regulation 28 of the Regulations of the Court, the Prosecution requests leave to submit this additional authority to the Pre-Trial Chamber.<sup>2</sup> If leave is granted, the Prosecution will file the document with an English translation.



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Luis Moreno-Ocampo, Prosecutor

Dated this 1st day of November, 2011

At The Hague, the Netherlands

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<sup>1</sup> ICC-01/09-01/11-345.

<sup>2</sup> The Appeals Chamber has held that a party may apply to submit additional authority, and the Court has the authority to accept it, under Regulation 28. See ICC-01/04-01/07-522 OA3, para. 16.