

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: ICC-01/09-02/11

Date: 11 May 2015

THE APPEALS CHAMBER

Before: Judge Silvia Fernández de Gurmendi
Judge Sanji Mmasenono Monageng
Judge Howard Morrison
Judge Piotr Hofmański
Judge Bertram Schmitt

SITUATION IN THE REPUBLIC OF KENYA

IN THE CASE OF

THE PROSECUTOR v. UHURU MUIGAI KENYATTA

URGENT

Public

The Government of the Republic of Kenya's Request for extension of time to file its Response to the 'Corrected version of Victims' submissions on the Prosecutor's appeal against the "Decision on Prosecution's application for a finding of non-compliance under Article 87(7)', ICC-01/09-02/11-1019-Corr dated 5 May 2015

Source: The Government of the Republic of Kenya

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

The Office of the Prosecutor

Ms. Fatou Bensouda, Prosecutor

Mr. James Stewart

Ms. Helen Brady

Counsel for the Defence

Mr. Steven Kay

Ms. Gillian Higgins

Legal Representatives of the Victims

Mr. Fergal Gaynor

State's Representatives

Mr. Githu Muigai, SC Attorney General
of the Republic of Kenya

Office of Public Counsel for Victims

Ms. Paolina Massidda

Ms. Caroline Walter

REGISTRY

Registrar

Mr. Herman von Hebel

I. INTRODUCTION

1. On 24 April 2015 the Appeals Chamber of the International Criminal Court ('the Appeals Chamber') issued '*Decision on the victims' request to participate in the appeal proceedings*'¹ ('Decision of 24 April 2015') granting the victims' request to participate in the Prosecution's appeal. In particular the Appeals Chamber stated as follows:

'2. The 839 victims represented by the legal representative of victims, who have applied to participate in the present appeal, are granted the right to participate for the purpose of presenting their views and concerns with respect to their personal interests in the issues raised on appeal. They may file their observations by 16h00 on Friday, 1 May 2015.

3. The Prosecutor, Mr Uhuru Muigai Kenyatta and the Government of Kenya may file their responses to the observations presented by the aforesaid victims by 16h00 on Friday, 8 May 2015.'

2. Pursuant to **Regulation 35** of the ICC Regulations of the Court, the Government of the Republic of Kenya humbly requests the Appeals Chamber for an extension of time to file its response to the '*Corrected version of Victims' submissions on the Prosecutor's appeal against the "Decision on Prosecution's application for a finding of non-compliance under Article 87(7)"*'² out of time. In particular, **Regulation 35** of the ICC Regulations of the Court which states as follows:

'1. Applications to extend or reduce any time limit as prescribed in these Regulations or as ordered by the Chamber shall be made in writing or orally to the Chamber seized of the matter setting out the grounds on which the variation is sought.

2. The Chamber may extend or reduce a time limit if good cause is shown and, where appropriate, after having given the participants an opportunity to be heard. After the lapse of a time limit, an extension of time may only be granted if the participant seeking the extension can demonstrate that he or she was unable to file the application within the time limit for reasons outside his or her control.'

¹ (Public) ICC-01/09-02/11-1015, 24 April 2015.

² (Public) ICC-01/09-02/11-1019-Corr, 5 May 2015.

3. The Government of the Republic of Kenya will demonstrate that owing to circumstances beyond its control, it was unable to file its response to the Corrected version of the Victims' submissions by the closing date of 8 May 2015 that was set by the Appeals Chamber.

II. SUBMISSIONS

4. On 1 May 2015 the Legal Representative of Victims (LRV) filed '*Victims' submissions on the Prosecutor's appeal against the "Decision on Prosecution's application for a finding of non-compliance under Article 87(7) of the Statute"*³ ('Victims' submissions').
5. Subsequently on 5 May 2015 the LRV filed '*Corrected version of Victims' submissions on the Prosecutor's appeal against the "Decision on Prosecution's application for a finding of non-compliance under Article 87(7)"*⁴ ('Corrected version of the Victims' submissions')
6. The Government of the Republic of Kenya wishes to inform the Appeals Chamber that it was notified of the Victims' submissions and Corrected version of the Victims' submissions on 6 May 2015 at 1657 hrs, 3 minutes before the end of the working day. Thereby, the Government of the Republic of Kenya **only had 1 day**, that is, 7 May 2015, to read file a response to the Corrected version of the Victims' submissions.
7. Consequently, the Government of the Republic of Kenya was not afforded appropriate time to read and file a response to the Corrected version of the Victims' submissions by the deadline set by the Appeals Chamber of 8 May 2015.

III. REQUESTED RELIEF

8. The Government of the Republic of Kenya respectfully requests Appeals Chamber to extend time and allow the Government of the Republic of

³ (Public) ICC-01/09-02/11-1019, 1 May 2015.

⁴ (Public) ICC-01/09-02/11-1019-Corr, 5 May 2015.

Kenya to file its response to the Corrected version of the Victims' submissions on or before 14 May 2015, 1600hrs, which will allow the Government of the Republic of Kenya time of 7 days which seemingly was the time period contemplated by the Appeals Chamber Decision of 24 April 2015 for the Government of the Republic of Kenya to file its response.

Respectfully Submitted,



Githu Muigai, SC
Attorney General of the Republic of Kenya

Dated 11 May 2015
At Nairobi, Kenya