Cour
Pénale
Internationale

International
Criminal
Court

Original: **English**

No.: **ICC-01/09-02/11**
Date: **14 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 '*Amicus Curiae* Observations of the Africa Centre for Open Governance pursuant to Rule 103 of the Rules of Procedure and Evidence'

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 30 April 2015 the Appeals Chamber of the International Criminal Court ('the Appeals Chamber') issued *'Order in relation to the Africa Centre for Open Governance's "Request for Leave to Submit Amicus Curiae Observations Pursuant to Rule 103 of the Rules of Procedure and Evidence'*[1] ('Order of 30 April 2015') granting Africa Centre for Open Governance (AFRICOG) to submit *amicus curiae* observations on specific issues identified by AFRICOG. In particular the Appeals Chamber ordered as follows:

> '1. The Africa Centre for Open Governance may file observations on the topics listed in the above-mentioned request of no more than 15 pages, in accordance with regulation 36 of the Regulations of the Court, by 16h00 on 8 May 2015.
>
> 2. The Prosecutor, Mr Uhuru Muigai Kenyatta and the Government of Kenya, and the legal representative of victims may file responses, of no more than 15 pages, to the above-mentioned observations by 16h00 on 15 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 ***'Amicus Curiae Observations of the Africa Centre for Open Governance pursuant to Rule 103 of the Rules of Procedure and Evidence'***[2] ('AFRICOG's observations'). 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-01/09-02/11-1018, 30 April 2015.
[2] (Public) ICC-01/09-02/11-1020, 8 May 2015.

II. SUBMISSIONS

3. On 12 May 2015 at 11:15 am the ICC Registry served the Office of the Attorney General and Department of Justice with AFRICOG's observations.
4. The Government of the Republic of Kenya submits that it is unable to effectively respond to AFRICOG's observations in the time remaining from the date of service, that is, **3 days**.

III. REQUESTED RELIEF

5. The Government of the Republic of Kenya respectfully requests Appeals Chamber to extend time and allow the Government of the Republic of Kenya to file its response to AFRICOG's observations on or before 19 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 Order of 30 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 14 May 2015
At Nairobi, Kenya