

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/09

Date: 23 December 2009

PRE-TRIAL CHAMBER II

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

SITUATION IN THE REPUBLIC OF KENYA

Confidential

Ex parte only available to the VPRS

Decision on Extension of Time Limit

Decision to be notified, in accordance with regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor

Counsel for the Defence

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar & Deputy Registrar

Silvana Arbia, Registrar

Didier Preira, Deputy-Registrar

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Fiona McKay

Other

THE JUDGES OF PRE-TRIAL CHAMBER II (the “Chamber”) of the International Criminal Court are seized of a request of extension for time limit submitted by the Victims Participation and Reparations Section (the “VPRS”).

1. On 26 November 2009, the Prosecutor filed the “Request for authorisation of an investigation pursuant to Article 15” in which he requested the Chamber to “authorise the commencement of an investigation into the situation in the Republic of Kenya in relation to the post-election violence of 2007-2008”.¹

2. On 10 December 2009, the Chamber issued an “Order to the Victims Participation and Reparations Section Concerning Victims’ Representations Pursuant to Article 15(3) of the Statute”, in which it ordered the VPRS to, *inter alia*, submit by Monday, 21 December 2009 a report outlining the steps undertaken with respect to victims’ representations.²

3. On 21 December 2009, VPRS filed the “Report Concerning Victims’ Representations”, in which it requested, *inter alia*, that the Chamber grant an extension of time until 15 March 2010, for filing a consolidated report after having received and summarized victims’ representations (the “21 December 2009 Report”).³

4. The Chamber notes rule 50(1) of the Rules of Procedure and Evidence (the “Rules”) and regulations 35 and 50(1) of the Regulations of the Court (the “Regulations”).

5. The Chamber notes that according to regulation 50(1) of the Regulations, “[t]he time limit for victims to make representations under article 15, paragraph 3, and rule

¹ ICC-01/09-3.

² Pre-Trial Chamber II, ICC-01/09-4.

³ ICC-01/09-6-Conf-Exp and its annexes.

50, sub-rule 3, shall be 30 days following information given in accordance with rule 50, sub-rule 1".

6. The Chamber observes that the Prosecutor informed victims in accordance with rule 50(1) of the Rules on 23 November 2009, and thus, the 30 days-period required under regulation 50(1) of the Regulations will expire on 23 December 2009.

7. The Chamber recalls that pursuant to regulation 35 of the Regulations, the Chamber may extend any time limit as prescribed in the Regulations "if good cause is shown, and where appropriate, after having given the participants an opportunity to be heard". Thus, the Chamber is of the view that it may vary the 30 days time limit set out in regulation 50(1) of the Regulations, if the VPRS has shown good cause in the 21 December 2009 Report.

8. The Chamber examined the reasons for extension of time limit developed in the 21 December 2009 Report and is convinced that the VPRS has shown good cause, which justifies granting its request. However, the Chamber is of the opinion that granting an extension of time limit must also be assessed and balanced against other competing interests, namely the expeditiousness of the proceedings as one of the fundamental tenets of their fairness. Accordingly, the Chamber still considers that it is reasonable to grant the VPRS an extension of time limit until Monday, 15 March 2010 as requested for the purpose of fully implementing the procedure set out in paragraph 9 of the 10 December 2009 Order.

9. The Chamber requests further that the VPRS includes any available information, as suggested in paragraph 9(c) of the 21 December 2009 Report, into the consolidated report to be submitted to the Chamber on 15 March 2010, to enable it to fully assess the content of the victims' representations.

FOR THESE REASONS, THE CHAMBER HEREBY

- a) **grants** the VPRS an extension of time limit until Monday, 15 March 2010 at 16h00 to fully implement the procedure outlined in paragraph 9 of the 10 December 2009 Order and to submit to the Chamber one consolidated report with the original representations annexed thereto, summarizing victims' representations;
- b) **reminds** that all victims' communications received by the Court, including those submitted by legal representatives of victims, be submitted directly to the VPRS;
- c) **orders** the Court Management Section to refrain from filing any victims' communications received by the Court in the record of the situation of the Republic of Kenya.

Done in both English and French, the English version being authoritative.



Judge Ekaterina Trendafilova
Presiding Judge



Judge Hans-Peter Kaul
Judge



Judge Cuno Tarfusser
Judge

Dated this Wednesday, 23 December 2009

At The Hague, The Netherlands