



Original: English

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

Date: 11 July 2011

PRE-TRIAL CHAMBER II

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

SITUATION IN THE REPUBLIC OF KENYA

IN THE CASE OF
THE PROSECUTOR v. WILLIAM SAMOEI RUTO, HENRY KIPRONO KOSGEY
AND JOSHUA ARAP SANG

PUBLIC

Application for an Extension of Time for the Filing of the Observations on behalf of Henry Kiprono Kosgey to 'Second Transmission to the Parties and Legal Representatives of Redacted Applications to Participate in the Proceedings'.

Source: Defence

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

The Office of the Prosecutor

Luis Moreno-Ocampo, Prosecutor
Fatou Bensouda, Deputy Prosecutor

Counsel for the Defence

Counsel for William Samoei Ruto:

Kioko Kilukumi Musau, Joseph
Kipchumba Kigen-Katwa and Kithure
Kindiki

Counsel for Henry Kiprono Kosgey:

George Odinga Oraro, Julius Kemboy
and Allan Kosgey

Counsel for Joshua Arap Sang:

Joseph Kipchumba Kigen-Katwa, Joel
Kimutai Bosek and Philemon K.B. Koech

Legal Representatives of the Victims

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

REGISTRY

Registrar

Ms. Silvana Arbia, Registrar

Counsel Support Section

Deputy Registrar

Mr. Didier Daniel Pereira, Deputy
Registrar

Victims and Witnesses Unit

Detention Section

1. On 30 March 2011, the Single Judge issued the “First Decision on Victims’ Participation in the Case”¹, putting in place the practical framework for the Victims Participation and Reparation Section (the “VPRS”) to properly and expeditiously assist the Single Judge in her preparation of the upcoming proceedings in relation to victims’ issues. The Single Judge ordered that any Defence observations to the redacted victims’ applications be filed within a time limit of two weeks upon notification of the redacted victims’ applications.
2. On 24 June 2011 the Registry issued “Second transmission to the Pre-Trial Chamber of applications to participate in the proceedings” and transmitted the 105 redacted applications to participate in the proceedings to the parties and the legal representatives of the applicants.²
3. On 11 July 2011, the Defence for Mr. Henry Kiprono Kosgey (the “Defence”) filed its observations in respect of the Second Transmission.
4. Due to inadvertent error by the Defence in calculating the time difference between Kenya and the Netherlands, the Defence was under the belief that it had submitted its filing at 3pm, which should have been before the expiration of the 4pm deadline.
5. The Defence was only informed after it had submitted its filing that subsequent to the commencement of daylight saving, the time difference between Kenya and The Netherlands is now one hour, and not two hours.
6. The Defence filing had therefore been submitted five minutes after the applicable 4pm deadline.
7. Pursuant to regulation 35(2) of the Regulations of the Court, the Defence respectfully requests the Honourable Single Judge to retroactively extend the

¹ Pre-Trial Chamber II, “First decision on Victims’ Participation in the Case”. ICC-01/09-01/11-17.

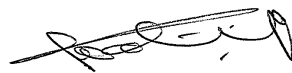
² “Second transmission to the parties and legal representatives of redacted applications to participate in the proceedings”, ICC-01/09-01/11-142.

deadline by a very modest five minutes. The Defence respectfully submits that the requested deadline will neither prejudice the parties nor delay the proceedings. The Defence was not in a position to file the request for an extension of time prior to the deadline as it was unaware that it had in fact missed the relevant deadline.

8. In terms of whether good grounds exist to grant the requested extension, in order to ensure that the Defence case manager had sufficient time to complete the upload of recent Prosecution disclosures, print and organise today's transmission of 230 victim applications, and attend a disclosure meeting with the Prosecution, Counsel had sought to file the Defence observations directly rather than *via* the Defence case manager. However, as Counsel have not been present in The Netherlands since the last status conference, which was on the 18th April 2011, Counsel were not aware of the existence of daylight saving in The Netherlands, and the impact that this would have as regards filing deadlines. It should be noted that Kenya does not have daylight saving, and as such, Counsel could not reasonably have anticipated that the time difference would have altered subsequent to the last Status Conference.

Relief Requested

9. For the reasons set out above, the Defence respectfully requests the Honourable Single Judge to grant the Defence a modest extension of five minutes.



George Odinga Oraro
On behalf of Henry Kiprono Kosgey

Dated this 11 July 2011

At Nairobi, Kenya