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

Date: **12 July 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**

**URGENT
Public Document**

**Prosecution's Provision of Information in accordance with the "Decision
Requesting the Parties to Submit Information for the Preparation of the
Confirmation of Charges Hearing"**

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

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Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

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Other

I. Introduction

1. Pursuant to the Single Judge's order issued on 29 June 2001¹, the Prosecution hereby submits information in preparation of the confirmation of charges hearing.

II. Background

2. On 8 March 2011, Pre-Trial Chamber II (the 'Chamber'), by majority, decided to summon William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang (collectively, the "suspects") to appear.² Pursuant to this decision, the suspects voluntarily appeared before the Court at the initial appearance hearing held on 7 April 2011 during which *inter alia*, the Chamber set the date for the commencement of the confirmation of charges hearing for 1 September 2011.
3. On 20 April 2011, the Single Judge issued the "Decision on the 'Prosecution's application requesting disclosure after a final resolution of the Government of Kenya's admissibility challenge' and Establishing a Calendar for Disclosure Between the Parties".³ Three disclosure deadlines were established: 13 May 2011 for evidence collected before 15 December 2010; 3 June 2011 for evidence collected between 15 December 2010 and 31 March 2011; and 8 July 2011 for evidence collected after 31 March 2011.
4. On 29 June 2011, the Single Judge requested that the parties indicate, by Tuesday 12 July 2011, whether they intend to call live witnesses at the confirmation of charges hearing and if so, to submit information detailing the subject matter and the scope of the proposed testimony of each witness.⁴ This deadline ensured that the parties and the services involved with the organization of the confirmation hearing such as the Victims and Witnesses Unit, in particular, would be in a position to make the necessary arrangements for the hearing.

¹ ICC-01/09-01/11-153, as detailed *infra*.

² "Decision on the Prosecutor's Application for Summons to Appear for William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang", ICC-01/09-01/11-1.

³ ICC-01/09-01/11-62.

⁴ ICC-01/09-01/11-153.

5. On 8 July 2011, the Defence for Mr Ruto and Mr Sang filed the “Defence Application for Extension of Time to Submit Information on Viva Voce Witnesses to be Called at the Confirmation Hearing” (the ‘Ruto and Sang Application’)⁵ requesting an extension to this deadline. On 11 July 2011, the Defence for Mr Kosgey filed a response supporting the Ruto and Sang Application and requested that any extension granted in favour of the Defence for Mr Ruto and Mr Sang also be granted in favour of Mr. Kosgey.⁶
6. On 11 July 2011, the Prosecution filed a response opposing the Ruto and Sang Application, requesting the Chamber to reject it and submitting two requests in the alternative.⁷
7. On 11 July 2011, the Chamber partially granted the Defence requests for an extension, and granted the Defence teams until Tuesday 19 July 2011 to indicate whether they intend to call live witnesses, and if so, to submit information detailing the subject matter and the scope of the proposed testimony of each witness.⁸ The Prosecution’s response to the Ruto and Sang Application, and its alternative requests contained therein, were not addressed by the Chamber in this decision.

III. Submissions

8. In the absence of any amendment to the Single Judge’s decision on 29 June 2011 vis-à-vis the Prosecution, the Prosecution hereby provides the information requested by the Single Judge in accordance with the deadline set down therein.

⁵ ICC-01/09-01/11-168.

⁶ “Response on behalf of Henry Kiprono Kosgey to ‘Defence Application for Extension of Time to Submit Information on Viva Voce Witnesses to be Called at the Confirmation Hearing’”, ICC-01/09-01/11-173.

⁷ “Prosecution’s Response to the ‘Defence Application for Extension of Time to Submit Information on Viva Voce Witnesses to be Called at the Confirmation Hearing’”, ICC-01/09-01/11-175. In the alternative, the Prosecution requested that the Chamber allow both parties to submit a temporary list on 12 July 2011 which may be amended until a new deadline established by the Single Judge; or that both parties be granted the same extension.

⁸ “Decision on the ‘Defence Application for Extension of Time to Submit Information on Viva Voce Witnesses to be Called at the Confirmation Hearing’”, ICC-01/09-01/11-176.

9. In an effort to conduct the hearing in the most efficient and expeditious manner, and in light of the ongoing and persistent concerns related to the security situation in Kenya, the Prosecution indicates that it does not intend to call any live witnesses at the confirmation of charges hearing scheduled to commence on 1 September 2011 provided the Prosecution can rely on redacted materials, including summaries.



Luis Moreno-Ocampo,
Prosecutor

Dated this 12th day of July 2011

At The Hague, The Netherlands