

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

PUBLIC

**Ruto and Sang Defence Request to Apply ‘Decision on Defences’ Requests
for a Compliance Order in regard to Decision “ICC-01/09-02/11-48”
(ICC-01/09/02/11-167) to the *Ruto et al* Case**

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 William Ruto

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

Counsel for Henry Kosgey

George Odinga Oraro, Julius Kemboy
and Allan Kosgey

Counsel for Joshua 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

Counsel Support Section

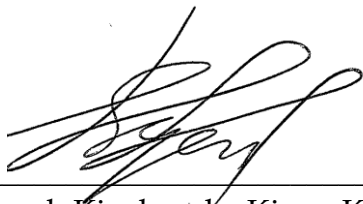
Deputy Registrar

Mr. Didier Daniel Preira

Victims and Witnesses Unit

Detention Section

1. The Defence for Mr. Ruto and Mr. Sang (the “Defence”) notes that on 12 July 2011, the Single Judge issued an order in the companion case *Muthaura et al*, to the effect that at the end of the disclosure proceedings, the Prosecutor should present the evidence upon which he intends to rely for the purposes of the confirmation hearing in an in-depth analysis chart wherein each piece of evidence relevant to the alleged criminal responsibility of each suspect will be presented separately.¹ The Single Judge ordered that this should be done no later than 1 August 2011.²
2. The Defence respectfully requests that the Single Judge issue the same order to the Prosecutor in *Ruto et al*, given that it is necessary for the Defence to understand the Prosecutor’s specific case against Mr. Ruto and Mr. Sang as individuals (rather than as associates of the ODM as an organization). To date, the Prosecutor’s disclosure has not been so clearly defined; in fact it has lacked precision entirely. While the Defence appreciates its own responsibilities with respect to analyzing the disclosure,³ it is incumbent on the Prosecutor to make known his case against each of the accused, so that they can prepare meaningfully for Confirmation. Not doing so slows the process of building the suspects’ cases.
3. Consequently, and to avoid any prejudice to Mr. Ruto and Mr. Sang, the Defence requests that the Single Judge exercise her authority to issue orders regarding the disclosure of information for the purposes of the hearing,⁴ and extend her ruling to the *Ruto et al* case.



Joseph Kipchumba Kigen-Katwa
On behalf of Mr. Joshua Arap Sang and Mr. William Samoei Ruto

Dated this 12th day of July 2011

In Nairobi, Kenya

¹ *Prosecutor v. Muthaura et al*, ICC-01/09-02/11-167, Decision on the Defences’ Requests for a Compliance Order in regard to Decision “ICC-01/09-02/11-48” (“**Decision**”), para. 21.

² Decision, p.9, Order (d).

³ Decision, para. 18.

⁴ Article 61(3).