

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

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

Date: 19 August 2011

PRE-TRIAL CHAMBER II

Before: Judge Ekaterina Trendafilova, Single 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 Document

**Communication to the Chamber pursuant to the Chamber's Decision of 5 August
2011**

Source: Victims' Representative

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
Joseph Kipchumba Kigen-Katwa, David
Hooper and Kioko Kilukumi Musau
Counsel for Henry Kiprono Kosgey
George Odinga Oraro
Counsel for Joshua Arap Sang
Joseph Kipchumba Kigen-Katwa

Legal Representatives of the Victims

Sureta Chana

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

Silvana Arbia

Deputy Registrar

Didier Preira

Counsel Support Section

Victims and Witnesses Unit

Fiona McKay

Detention Section

**Victims Participation and Reparations
Section**

Other

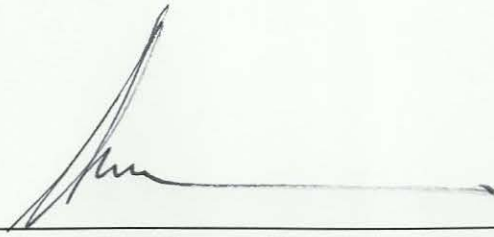
1. The Single Judge's "Decision on Victims' Participation at the Confirmation of Charges Hearing and in the Related Proceedings" of 5 August 2011 (ICC-01/09-01/11-249 05-08-2011) (the "5 August 2011 Decision") appointed a common legal representative of all the victims admitted to participate by that decision (the "victims' representative").
2. Paragraph (j) of the orders made in the dispositive part of the 5 August 2011 Decision ordered the victims' representative:

... upon consultation with her clients, to communicate to the Chamber, by no later than Monday, 22 August 2011, the victims' preference on the disclosure of their identity to the Defence.

3. Pursuant to that paragraph of the 5 August 2011 Decision, the victims' representative communicates herewith the following to the Chamber.
4. The victims' representative was appointed on 5 August 2011, and was provided with the documents related to the case in The Hague on the 11th and 12th of August 2011. The following Monday, 15 August 2011, the victims' representative departed on mission to Kenya, arriving in Nairobi on Tuesday, 16 August 2011.
5. On arrival in Nairobi, it was not possible to travel to some areas of Nairobi, as a security assessment had not been done for the victims but only for the staff.
6. The victims' representative has been engaged in meetings in Nairobi, including with the former legal representatives of victims, as instructed by the Chamber in its 5 August 2011 Decision, and with the relevant intermediaries. It has been important to develop a relationship of trust with the former representatives and intermediaries in order to facilitate a meeting with the victims. While in Nairobi, the victims' representative has also been recruiting Kenyan field officers for her team.
7. Arrangements have now been made for approximately 150 victims to travel at very short notice to Nakuru. They are due to travel for 8 hours and to arrive in Nakuru on Tuesday, 23 August 2011. The victims' representative will meet

all of the victims in order to explain to them the terms of the Single Judge's order so that they can make an informed decision about their preference on the disclosure of their identity to the Defence.

8. It will not be possible during the course of the present mission to meet with any of the other victims that the victims' representative represents.
9. The victims' representative has made enquires of the relevant sections of the Registry as to whether it is possible to contact the remaining victims by alternative means, but other means of contact have not been identified. Most of them do not have telephones and live in remote areas. It was also considered prudent not to contact victims without first having been officially introduced to the victims by either their former representatives or the relevant intermediary.
10. The victims' representative confirms that it appears from conversations with former representatives and intermediaries that almost all of the victims accepted in the Case were properly informed about the distinction between disclosure to the public and disclosure to the defence and that most of the victims indicated that they have grave security concerns.
11. In the present circumstances, it will not be possible by the deadline of 22 August 2011 to consult with all 327 victims regarding their preference on the disclosure of their identity to the Defence.
12. It is expected to be possible by Monday 24 October 2011, to communicate to the Chamber the preference of all of the victims admitted in the Case.
13. Under these circumstances, the victims' representative requests an extension of time to comply with the order referred to in paragraph 2 above.
14. It is further respectfully submitted that the appropriate course in the circumstances is to assume that all 327 victims do not wish their identities to be disclosed to the Defence, until after the completion of the consultations by 24 October 2011.



Sureta Chana

Dated this 19 August 2011

At Nairobi, Kenya
