

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/09-01/11
Date: 11 October 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 Document

Request for extension of time-limit for the filing of the "Response by the Victims' Representative to the 'Defence Request Regarding Prejudicial Comments Made by Victims' Legal Representative Sureta Chana during Closing Statement'"

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

Ms Sureta Chana

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented
Applicants(Participation/Reparation)**

The Office of Public Counsel for Victims

Ms Paolina Massidda

**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**

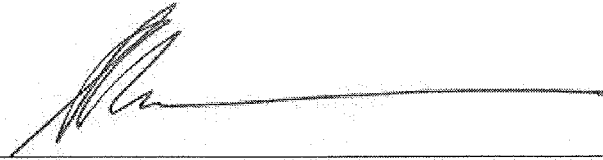
Other

1. On 30 September 2011, the Defence for Mr Ruto and Mr Sang filed the “Defence Request Regarding Prejudicial Comments Made by Victims’ Legal Representative Sureta Chana during Closing Statement” filed on 30 September 2011 (the “**Defence Request**”).¹
2. On 3 October 2011, the Single Judge issued the “Decision on the ‘Request by the Victims’ Representative for authorisation to respond to the “Defence Request Regarding Prejudicial Comments Made by Victims’ Legal Representative Sureta Chana during Closing Statements””,² authorising the victims’ representative to file a response by 16:00 on 11 October 2011.
3. The victims’ representative’s response, including all annexes, was submitted to the Registry of the Court on 11 October 2011. The various annexes, and the body of the response, were sent in different e-mails.
4. The victims’ representative understands that some of these e-mails were received by Court Management prior to expiry of the 16:00 deadline, while others were received only after this deadline.
5. The victims’ representative further understands that the last of the e-mails was received by Court Management at 18:54 on 11 October 2011, less than three hours after expiry of the time limit.
6. The victims’ representative hereby requests, pursuant to regulation 35 of the Regulations of the Court, that the deadline for the filing be extended, such that the entire filing and all annexes are accepted as filed on time. It is submitted that there is good cause for granting the extension, and that the filings were late due to reasons outside the control of the victims’ representative, in that:
 - a. there was a short deadline for the filing, namely 1 week from the date of the 3 October 2011 decision authorising the response;
 - b. during that period, the victims’ representative was preparing for a mission to Kenya, and travelled to Kenya;

¹ ICC-01/09-01/11-343.

² ICC-01/09-01/11-347.

- c. the filing had to be finalised while the victims' representative was away from her normal place of work, working from a hotel room in Nairobi;
 - d. the filing was substantial, and involved obtaining five affidavits from five different people, each of which had to be sworn before a notary in Kenya, all of which required time and organisation;
 - e. on 11 October 2011, as the filing was being e-mailed to Court Management from Kenya, technical difficulties were encountered, in that e-mails sent before expiry of the deadline were not received by Court Management. It was only upon contacting Court Management that the victims' representative was informed that the Court Management e-mail system will not accept e-mails over 5 megabytes. It then became necessary for steps to be taken to reduce the size of the attachments and for them to be retransmitted;
 - f. the Defence Request contains extremely strong allegations against the victims' representative, and it is submitted that principles of fairness require the victims' representative to be able to respond;
 - g. the filing relates to matters of considerable importance to the victims, and it is in the interest of justice for it to be considered by the Chamber.
7. It is submitted that in the circumstances, all reasonable steps were diligently taken to seek to file the document within the time-limit, that it was simply not possible for the entire document to be transmitted in a way that it was received by Court Management by 16:00, that the period of delay was *de minimis* (less than 3 hours), and that no prejudice has been caused to any party or to the proceedings.



Sureta Chana

Dated this 11th day of October 2011

At Nairobi, Kenya