



Original: English

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

Date: 13 January 2012

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

**Amendmentsto the Communicationsby the Victims' Representative to the Pre-Trial
Chamber and further communication following the Single Judge's decision of 9
December 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

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 Other
Section**

Amendments to the Communications by the Victims' Legal Representative to the Pre-Trial Chamber

1. The Single Judge's "Decision on Victims' Participation at the Confirmation of Charges Hearing and in the Related Proceedings" of 5 August 2011¹ (the "**5 August 2011 Decision**") appointed SuretaChana as the Common Legal Representative for all 327 victims admitted to participate in the confirmation of charges proceedings.
2. Paragraph (j) of the orders made in the dispositive part of the 5 August 2011 Decision ordered the victims' Legal 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 order, the victims' Legal Representative filed communications to the Chamber in these proceedings on 19 August 2011,² 25 August 2011,³ and 9 November 2011.⁴
4. In the course of an internal review, the Legal Representative's team has identified certain inaccuracies in some of the details provided in those filings. These relate to the total number of victims consulted, and some of the victim reference numbers. The Legal Representative's team has undertaken a thorough review of its records and has established a final corrected list of consulted victims.
5. The victims' Legal Representative accordingly provides the following corrected information to the Chamber.
6. In her 25 August 2011 communication to the Chamber,⁵ the Legal Representative informed the Chamber that she had met 98 victims on 22-24 August 2011. In fact, the Legal Representative met 101⁶ victims on 22-24 August 2011.

¹ICC-01/09-01/11-249.

²ICC-01/09-01/11-282, "Communication to the Chamber pursuant to the Chamber's Decision of 5 August 2011".

³ICC-01/09-01/11-292, "Communication to the Chamber pursuant to the Chamber's Decision of 5 August 2011".

⁴ ICC-01/09-01/11-366, "Communication to the Chamber pursuant to the Chamber's Decision of 5 August 2011".

⁵ICC-01/09-01/11-292, "Communication to the Chamber pursuant to the Chamber's Decision of 5 August 2011".

7. In her 9 November 2011 communication to the Chamber,⁷ the Legal Representative informed the Chamber that she had met 126 victims on 12 and 18 October 2011. The list of victim reference numbers given in that filing also contained certain anomalies. In fact, the Legal Representative met 143 victims⁸ on 12 and 18 October 2011.
8. For the avoidance of doubt, it is confirmed that all of the victims met in August and October 2011 wish that their identities not be disclosed either to the Defence or to the Defence counsel.
9. Subject to the above corrections as to total numbers of victims consulted and as to victim reference numbers, the information given in the earlier filings referred to above is correct. The victims' Legal Representative regrets the inaccuracies in the earlier filings. Her team has revised their procedures with a view to preventing this from occurring again.

⁶a/8327/11, a/8330/11, a/8331/11, a/8332/11, a/8334/11, a/8337/11, a/8338/11, a/8342/11, a/8343/11, a/8346/11, a/8350/11, a/8351/11, a/8352/11, a/8353/11, a/8354/11, a/8355/11, a/8356/11, a/8358/11, a/8359/11, a/8360/11, a/8361/11, a/8362/11, a/8363/11, a/8367/11, a/8368/11, a/8372/11, a/8374/11, a/8379/11, a/8380/11, a/8381/11, a/8382/11, a/8384/11, a/8386/11, a/8388/11, a/8390/11, a/8391/11, a/8392/11, a/8393/11, a/8394/11, a/8395/11, a/8396/11, a/8397/11, a/8398/11, a/8399/11, a/8401/11, a/8401/11, a/8402/11, a/8403/11, a/8404/11, a/8405/11, a/8408/11, a/8409/11, a/8417/11, a/8418/11, a/8419/11, a/8420/11, a/8422/11, a/8423/11, a/8424/11, a/8425/11, a/8426/11, a/8428/11, a/8429/11, a/8430/11, a/8431/11, a/8432/11, a/8433/11, a/8434/11, a/8435/11, a/8436/11, a/8437/11, a/8438/11, a/8440/11, a/8442/11, a/8758/11, a/8767/11, a/8770/11, a/8771/11, a/8773/11, a/8775/11, a/8776/11, a/8780/11, a/8443/11, a/8645/11, a/8646/11, a/8647/11, a/8648/11, a/8649/11, a/8650/11, a/8651/11, a/8652/11, a/8653/11, a/8654/11, a/8655/11, a/8657/11, a/8659/11, a/8661/11, a/8664/11, a/8666/11, a/0041/10, a/0056/10.

⁷ICC-01/09-01/11-366, "Communication to the Chamber pursuant to the Chamber's Decision of 5 August 2011".

⁸a/0143/10, a/0234/10, a/0237/10, a/0275/10, a/0372/10, a/0578/10, a/2082/10, a/8027/11, a/8333/11, a/8336/11, a/8347/11, a/8376/11, a/8400/11, a/8407/11, a/8413/11, a/8774/11, a/8778/11, a/8782/11, a/8872/11, a/8897/11, a/8921/11, a/8955/11, a/8957/11, a/8959/11, a/8961/11, a/8962/11, a/8980/11, a/8983/11, a/8994/11, a/9001/11, a/0045/10, a/0051/10, a/8016/11, a/8017/11, a/8020/11, a/8021/11, a/8023/11, a/8025/11, a/8026/11, a/8028/11, a/8030/11, a/8031/11, a/8032/11, a/8037/11, a/8038/11, a/8039/11, a/8040/11, a/8042/11, a/8045/11, a/8054/11, a/8056/11, a/8057/11, a/8058/11, a/8709/11, a/8710/11, a/8711/11, a/8716/11, a/8717/11, a/8718/11, a/8719/11, a/8720/11, a/8724/11, a/8727/11, a/8738/11, a/8750/11, a/8835/11, a/8836/11, a/8846/11, a/8855/11, a/8859/11, a/8861/11, a/8868/11, a/8869/11, a/8873/11, a/8895/11, a/8899/11, a/8901/11, a/8902/11, a/8904/11, a/8905/11, a/8908/11, a/8909/11, a/8910/11, a/8914/11, a/8916/11, a/8917/11, a/8918/11, a/8920/11, a/8922/11, a/8923/11, a/8924/11, a/8933/11, a/8936/11, a/8940/11, a/8945/11, a/8946/11, a/8947/11, a/8952/11, a/8966/11, a/8987/11, a/8988/11, a/8989/11, a/8991/11, a/8997/11, a/9004/11, a/9006/11, a/9010/11, a/9012/11, a/9013/11, a/9015/11, a/9016/11, a/9017/11, a/9018/11, a/9019/11, a/9020/11, a/9021/11, a/9022/11, a/9023/11, a/9024/11, a/9027/11, a/9028/11, a/9029/11, a/9030/11, a/9031/11, a/9033/11, a/9035/11, a/9036/11, a/9037/11, a/9038/11, a/9039/11, a/9040/11, a/9041/11, a/9042/11, a/9043/11, a/9044/11, a/9045/11, a/9046/11, a/9047/11, a/9051/11, a/9052/11, a/9053/11, a/9054/11, a/9055/11.

Communication following the Single Judge's decision of 9 December 2011

10. The victims' Legal Representative also wishes to advise the Pre-Trial Chamber of the following. On 9 December 2011, the Single Judge gave the "Decision on the 'Request by the Victims' Representative for authorisation to make a further written submission on the views and concerns of the victims'".⁹ In that decision, the Single Judge said (at paragraph 17) that certain concerns raised by the victims' Legal Representative in a filing of 11 November 2011 should be addressed by the victims' representative to the Prosecution. The victims' representative advises that following that Decision, she is now in communication with the Office of the Prosecutor in relation to the concerns of victims that have been raised by the Legal Representative in the course of the confirmation of charges stage of the proceedings.
11. The victims' representative appreciates that it is not realistic at this stage to expect that concrete action could be taken by the Office of the Prosecutor to resolve those concerns of victims before the Pre-Trial Chamber gives its decision on the confirmation of charges, which is expected very shortly. It is submitted that where legitimate concerns are raised by victims in the course of the confirmation of charges stage of proceedings, and are still unresolved at the time that the confirmation of charges decision is given by the Pre-Trial Chamber, subsequent action to address those concerns should not be precluded by reason alone that the confirmation of charges decision has been given.



Sureta Chana

Dated this 13th day of January 2012

At London, United Kingdom

⁹ICC-01/09-01/11-371.