



Original: **English**

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

Date: **8 August 2012**

TRIAL CHAMBER V

Before: Judge Kuniko Ozaki, Presiding Judge
Judge Christine Van den Wyngaert
Judge Chile Eboe-Osuji

SITUATION IN THE REPUBLIC OF KENYA

IN THE CASE OF
THE PROSECUTOR v. WILLIAM SAMOEI RUTO AND JOSHUA ARAP SANG

PUBLIC

With Confidential and Ex parte Annex- Registry and Legal Representative only

**Communication by the Victims' Representative to the Trial Chamber of the
decision of the Registrar dated 18 July 2012**

Source: Victims' Representative

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor
Ms. Fatou Bensouda, Prosecutor

Counsel for William Samoei Ruto
Mr. Kioko Kilukumi Musau
Mr. David Hooper

Counsel for Joshua Arap Sang
Mr. Joseph Kipchumba Kigen-Katwa
Mr. Joel Kimutai Bosek

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

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar
Ms. Silvana Arbia
Deputy Registrar
Mr. Didier Preira

Counsel Support Section
Mr. Esteban Peralta Losilla
Mr. Sam Sasan Shoamanesh

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**
Ms. Fiona McKay

Other

1. On 1 June 2012, the Legal Representative filed the “Urgent request by the Victims’ Representative pursuant to regulation 83(4) of the Regulations” (the “1 June 2012 request”).¹
2. The 1 June 2012 request sought a review by the Trial Chamber, pursuant to regulation 83(4) of the Regulations of the Court, of decisions of the Registrar of 23 May 2012 and 24 May 2012 on the scope of legal assistance to be paid by the Court for the legal representation of the victims in this case.
3. On 7 June 2012, the Registrar submitted her Observations on the 1 June 2012 request in accordance with Regulations 24 *bis* of the Regulations of the Court and the instructions of the Chamber dated 1 June 2012.²
4. Since the 1 June 2012 request, there have been activities that have needed to be conducted urgently by the Legal Representative and her team. The Legal Representative has accordingly continued to engage with the Registry in relation to the issue of the scope of legal assistance to be provided to the Legal Representative’s team.
5. On 11 June 2012, following the Status Conference,³ the Legal Representative met with two officials of the Counsel Support Section. During this meeting, the Legal Representative and the Counsel Support Section discussed the possibility of finding a common ground in relation to the minimum resources needed for her team to operate at this stage of the proceedings and taking into consideration urgent tasks that need to be done.
6. Thereafter, on 25 June 2012 the Legal Representative submitted a proposal for part-time work of team members and detailed justification of activities to be undertaken by her team.
7. After consideration of the proposal and plan of activities, the Registrar granted in full the resources requested by the Legal Representative, by a decision dated 18 July 2012 (“the Registrar’s 18 July 2012 decision”), annexed to the present. The Registrar’s decision takes effect from 11 June 2012, and supersedes the decisions of the Registrar of 23 May 2012 and 24 May 2012.

¹ ICC-01/09-01/11-420.

² ICC-01/09-01/11-427.

³ The first Status Conference on preparations for trial in the case was held on the 11 June 2012.

8. The second last paragraph of the Registrar's 18 July 2012 decision states that the decision "shall remain applicable unless otherwise decided by the Trial Chamber or if any relevant factors arise that justifies a reconsideration of the resources allocated by [the] decision".
9. The Legal Representative understands that the Trial Chamber will in due course issue a decision on victims' participation at the trial phase of the proceedings, analogous to the decision of the Single Judge of the Pre-Trial Chamber of 5 August 2011,⁴ dealing *inter alia* with the level of resources to be provided to the legal representation team.⁵
10. The position of the Legal Representative is that the level of resources required by the Legal Representative's team during the trial phase of the proceedings should not be less than the level of resources required during the pre-trial phase in this case. The Legal Representative will request the Trial Chamber, when making a decision on victims' participation at the trial phase, to so decide.
11. At this stage, prior to commencement of the trial itself, the Legal Representative does not accept that the level of resources provided pursuant to the Registrar's 18 July 2012 decision is adequate to meet the reasonable needs of the victims' representation at this stage of the proceedings. However, on the understanding that the Trial Chamber will be ruling in due course on victims' participation at the trial phase, pressed by the need to continue to fulfil her mandate and comply with orders of the Trial Chamber and in the interest of seeking a cooperative relationship with the Registry, the Legal Representative has accepted the agreement as approved by the Registrar's decision of 18 July 2012. The Legal Representative emphasises that this should not be understood as a concession by the Legal Representative as to the level of resources that would be adequate during preparations for trial in this or other cases, let alone during the trial itself.
12. On this basis, the Legal Representative withdraws the 1 June 2012 request. This withdrawal is without prejudice to the right of the Legal Representative to apply under regulation 83(4) of the Regulations in respect of any future decision that the

⁴ "Decision on Victims' Participation at the Confirmation of Charges Hearing and in the Related Proceedings", ICC-01/09-01/11-249.

⁵ Compare *ibid.*, paras 79-80.

Registrar may give, including any future decision of the Registrar on any future request by the Legal Representative for additional resources, should the Legal Representative consider any such future request to be necessary.

13. The Annex to the present filing is classified as confidential ex parte as it includes personal information of the Legal Representative.

A handwritten signature in blue ink on a light green background. The signature is stylized, starting with a large, sweeping 'S' and ending with a horizontal line.

Sureta Chana

Victims' Representative

Dated this 8th day of August 2012

At London, United Kingdom