

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/09-01/11
Date: 16 September 2015

TRIAL CHAMBER V(A)

Before: Judge Chile Eboe-Osuji, Presiding
Judge Olga Herrera Carbuca
Judge Robert Fremr

SITUATION IN THE REPUBLIC OF KENYA

*IN THE CASE OF
THE PROSECUTOR*

v.

WILLIAM SAMOEI RUTO AND JOSHUA ARAP SANG

Public

**Common Legal Representative for Victims' Reply to the Ruto Defence
Application for Extension of Time Limit to Submit a 'no case to answer'
Motion**

Source: Wilfred Nderitu, Common Legal Representative for Victims

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

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Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Core of the Arguments:

1. The CLR takes note of the legal basis for the “Ruto Defence application for extension of time limit to submit a ‘no case to answer’ motion”.¹ The CLR recognizes the short interval between the deadline for presentation of the Appeals brief and the submission of ‘no case to answer’ and particularly notes that both filings are due in the course of the same week. The Appeals brief, which raises novel points of law, comes first and it is acknowledged that the same raises fairly complex issues for which it is reasonable to presume that an appreciable amount of preparation for its filing will be required. In this regard, the CLR takes note of the fact that the Trial Chamber, in granting leave to appeal, certified seven legal issues for appeal.
2. The CLR also acknowledges that the submission of ‘no case to answer’ is an important filing in the scheme of things, involving the potential dismissal of one or more counts against either or both the accused persons. The importance of the submission is therefore not only for the two Defence teams but also for the Prosecution, the victims and the Trial Chamber. A ‘no case to answer’ motion also has implications for the approach to be taken and trial efficiency during the Defence case, should the motion not be upheld by the Trial Chamber in whole or in part. Again, this is true not only for the Defence, but equally for the Prosecution. For the above reasons, the CLR submits that extension of the time limit would be justified.
3. More importantly, adequate preparation by the Defence for the submissions of ‘no case to answer’ would be consistent with giving effect to the right of the accused persons “to have adequate time and facilities for the preparation of the defence...” outlined in Article 67(1)(b) of the Rome Statute, as an ingredient of the right to a fair trial.

¹ ICC-01/09-01/11-1959

4. In the final analysis, the CLR submits that the proximity in time of the presentation of the two filings is likely to occasion some difficulty in 'doing justice' to both filings to the Defence. This difficulty is however not peculiar to the Defence as its ripple effect will be to cause a correspondingly heavy burden in relation to the filings by the Prosecution and the victims in response to the 'no case to answer' submissions and the Appeals brief. It is therefore desirable that the two filings be spread out in such a manner as will allow for a proper preparation of the filings by all parties and participants.

Conclusion, and Relief Sought:

5. Accordingly, the CLR agrees that there is justification for the extension of time for the filing of the 'no case to answer' submissions, and requests the Trial Chamber to grant the Ruto Defence application for extension of the time limit for the filing of the 'no case to answer' motion.

Respectfully submitted,



WILFRED NDERITU

Common Legal Representative for Victims

Dated this 16th day of September, 2015

In Nairobi, Kenya