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

Date: 23 March 2016

TRIAL CHAMBER V(A)

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

SITUATION IN THE REPUBLIC OF KENYA

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

Public

**With one Confidential *EX PARTE* annex, available only to the Registry and the
Common Legal Representative for Victims**

**Twentieth Periodic Report on the general situation of victims in the case and the
activities of the Victims Participation and Reparations Section and the Common
Legal Representative in the field**

Source: Registry

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

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Defence of Joshua Arap Sang

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I. Introduction

1. During the reporting period (26 January 2016 – 23 March 2016) the Common Legal Representative (the “CLR”) met 70 victims in person, all of whom have been previously registered to participate in the case of *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang* (the “Case”). According to the information available to the Registry, the total number of victims verified as within the scope of the Case by the CLR remains at 954.
2. During the same period, the Registry held meetings with civil society organisations involved in facilitating victim participation in the Case.
3. The present report will cover information concerning the activities of the CLR in the field.

II. Procedural History

4. On 3 October 2012, Trial Chamber V issued a decision on victims’ representation and participation ordering the Victims Participation and Reparations Section (the “VPRS”) to file every two months, in cooperation with the CLR, once appointed, a comprehensive report on the general situation of victims as a whole, including statistics about the victims’ population and information in relation to registered and non-registered victims (the “3 October 2012 Decision”);¹
5. On 14 November 2013, Trial Chamber V(A) issued a decision ordering the Registry to include additional information relating to referrals of victims to the Victims and Witnesses Section and any additional security incidents of direct relevance to the Case in its two month reports (the “Decision of 14 November 2013”);²

¹ ICC-01/09-01/11-460, para. 55 and Part VI.

² ICC-01/09-01/11-1098-Red2, paras 37 and 44 (c) and (d).

III. Classification

6. The Registry submits the present report in accordance with article 68(1) and (3) of the Rome Statute, rule 16 of the Rules of Procedure and Evidence and regulations 23*bis* and 86 of the Regulations of the Court.
7. Annex A, which addresses the issues listed in the Decision of 14 November 2013,³ is submitted with the status “Confidential *ex parte*, only available to the Registry and the Common Legal Representative” because it contains sensitive information that relates to the safety and physical well-being of victims or intermediaries.

IV. Submissions

A. Information Concerning the Activities of the CLR in the Field

8. In accordance with the 3 October 2012 Decision, the CLR provided the VPRS with detailed information relating to his activities.⁴ The CLR indicated that, during the reporting period, he and his team personally met with 70 victims from Uasin Gishu County who currently reside in Nyandarua County. The CLR noted that he has been unable to meet with the victims from Nyandarua County in person since October 2014 and used the opportunity to provide his clients with an update on the proceedings and to respond to their questions and concerns. During the reporting period, the CLR and his team also communicated with 215 victims by telephone to provide them with updates on the developments in the case, including the Appeals Chamber’s Decision on the Prosecution Request for Admission of Prior Recorded Testimony⁵, and to explain the potential ramifications.
9. The general situation of the victims from Nyandarua County is presented in the tables below.

³ ICC-01/09-01/11-1098-Red2, para. 44 (c) and (d).

⁴ All data in relation to the activities of the CLR in the field are derived from the meeting forms submitted to the VPRS on a bi-monthly basis for the purposes of the periodic report.

⁵ ICC-01/09-01/11-2024.

Meeting 1**Location:** Nyandarua County**Category:** Previously Registered Victims**General Situation**

The CLR reported that the victims in this group have been struggling to rebuild their lives following the Post-Election Violence (“PEV”) and that many raised issues pertaining to the Government of Kenya’s (“GoK”) resettlement process during the meeting. According to the CLR, the issues raised by victims include environmental and social factors in the areas designated for resettlement which have resulted in resentment and conflict between the victims and the surrounding communities. The victims in this group explained that at least two of them have been forcibly evicted from the land that they were given by the government by armed residents of the Laikipia and Nyandarua North areas. According to the CLR, due to the fact that they were never given deeds to their newly assigned properties, the victims who were displaced were not able to reclaim their property interests before the courts.

During the meeting, the victims also raised additional issues surrounding the resettlement process that have impacted their general situation including the non-delivery of promised home construction materials and/or agricultural support for the land and exposure, due to proximity of land grants to national parks, to wild animals, including elephants, that routinely destroy homes and crops.

Meeting 2**Location:** Nyandarua County**Category:** Previously Registered Victims**General Situation**

The CLR reported that the victims in this group have been struggling to rebuild their lives following the PEV and that they consider that they have received inadequate support from the GoK in order to assist them in this endeavour. According to the victims in this group, providing education to their children, especially after secondary school, has proven to be prohibitively expensive. During the meeting, the victims explained that life as farmers in Nyandarua County is very difficult due in part to the fact that the land that they have been resettled on is infertile and lacks access to water for irrigation. According to the CLR, their inability to make the land productive has resulted in their inability to earn a living for themselves and provide for their children.

In addition, according to the CLR, approximately 25% of the victims in the group are aware of the identity of the person(s) who allegedly committed crimes against them during the PEV, but none, in the current political climate, has pursued justice against their alleged direct perpetrators. According to the CLR, the victims are disappointed with the lack of local judicial or quasi-judicial mechanisms in place to assist them in their pursuit of justice.



 Marc Dubuisson, Director Division of Judicial Services
per delegation of
 Herman von Hebel, the Registrar

Dated this 23 March 2016

At The Hague, The Netherlands