

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 1 April 2011

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

Decision Pursuant to Regulation 24(1) of the Regulations of the Court

Decision 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

Joseph Kipchumba Kigen-Katwa
Kioko Kilukumi Musau
George Odinga Oraro

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

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

States Representatives

Amicus Curiae

REGISTRY

Registrar & Deputy Registrar

Silvana Arbia, Registrar
Didier Preira, Deputy-Registrar

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Judge Ekaterina Trendafilova, acting as Single Judge on behalf of Pre-Trial Chamber II (the "Chamber") of the International Criminal Court (the "Court"),¹ renders this order with respect to "Registry's assessment of Mr. Joshua Arap Sang's English proficiency level" (the "Registry's Submission").²

1. On 15 December 2010, the Prosecutor submitted the "Prosecutor's Application Pursuant to Article 58 as to William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang" (the "Prosecutor's Application") together with 19 annexes attached thereto.³

2. On 8 March 2011, the Chamber issued its decision on the Prosecutor's Application, whereby the Chamber, by majority, decided to summon the suspects to appear before it on 7 April 2011.⁴

3. On 31 March 2011, the Registrar filed before the Chamber the "Registry's Submission", together with three annexes attached thereto.⁵ These annexes include two letters electronically communicated on 24 March 2011 to the Registrar by the Defence Counsel for Mr Sang, wherein it requested, *inter alia*, that the proceedings be conducted in Kalenjin as the language which he is "familiar and comfortable with".⁶ Upon receipt of the two letters, the Registrar conducted an assessment of the proficiency level of Mr Sang, the outcome of which is reflected in the Registry's Submission. In particular, the Registrar concluded that Mr Sang appears to be completely fluent in English and, accordingly, did not recommend the use of Kalenjin for the initial appearance and subsequent proceedings in the case.

¹ Pre-Trial Chamber II, "Decision Designating a Single Judge", ICC-01/09-01/11-6.

² ICC-01/09-01/11-20 and its annexes.

³ ICC-01/09-30-Conf-Exp and its annexes.

⁴ Pre-Trial Chamber II, "Decision on the Prosecutor's Application for Summons to Appear for William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang", ICC-01/09-01/11-01.

⁵ Annex 1 and annex 2 to the Registry's Submission are currently classified as "confidential", whilst annex 3 is filed as a public document.

⁶ Annex 1 to the Registry's Submission. The Single Judge does not consider that the information revealed from this annex currently classified as "confidential" affects its level of classification.

4. The Single Judge notes regulation 24(1) and 34(b) of the Regulations of the Court (the "Regulations").

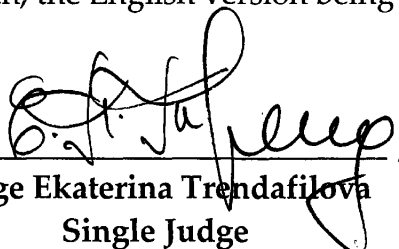
5. According to regulation 24(1) of the Regulations, the "Prosecutor and the defence may file a response to any document filed by any participant in the case in accordance with the Statute, Rules, these Regulations and any order by the Chamber". This provision shall be read in conjunction with regulation 34(b) of the Regulations, which mandates that such response "shall be filed within 21 days of notification in accordance with regulation 31 of the document to which the participant is responding", unless otherwise ordered.

6. In light of the principle of expeditiousness and considering that the issue raised in the Registry's Submission warrants a prompt resolution, the Single Judge deems it necessary to reduce the time limit provided for in regulation 34(b) of the Regulations, should the Prosecutor and the Defence Counsel for Mr Sang wish to respond to the Registry's Submission.

**FOR THESE REASONS, THE SINGLE JUDGE
ORDERS**

the Prosecutor and the Defence Counsel for Mr Sang, should they wish to respond to the Registry's Submission, to file their responses by no later than Monday, 4 April 2011 at 16.00 hrs.

Done in both English and French, the English version being authoritative.



Judge Ekaterina Trendafilova
Single Judge

Dated this Friday, 1 April 2011

At The Hague, The Netherlands