

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 4 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
URGENT**

Decision on Joshua Arap Sang's Request for Extension of Time Limit

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 decision with respect to the “Defence Request for Extension of Time” (the “Defence Request”),² filed by the Defence for Joshua Arap Sang.

1. On 8 March 2011, the Chamber, by majority, decided to summon William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang to appear before the Court on 7 April 2011.³

2. On 31 March 2011, the Registrar filed before the Chamber the Registry's Submission, together with three annexes attached thereto.⁴ These annexes include two letters electronically communicated on 24 March 2011 to the Registrar by the Defence Counsel for Mr. Sang, wherein it is requested, *inter alia*, that the proceedings be conducted in Kalenjin as the language which Mr. Sang is “familiar and comfortable with”.⁵ 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.

3. On 1 April 2011, the Single Judge issued a decision, ordering the Prosecutor and the Defence for Mr. Sang, should they wish to respond to the Registry's Submission, to file their responses no later than 4 April 2011 at 16.00 hours (the “1 April 2011 Decision”).

4. On 4 April 2011, the Defence for Mr. Sang submitted the Defence Request, wherein it is submitted that it was only alerted of the 1 April 2011 Decision on 4 April 2011 at 14.45 hours and was not able to submit a meaningful response by the time limit.⁶ For

¹ Pre-Trial Chamber II, “Decision Designating a Single Judge”, ICC-01/09-02/11-9.

² ICC-01/09-01/11-30.

³ 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.

⁴ Annex 1 and annex 2 to the Registry's Submission are currently classified as “confidential”, whilst annex 3 is filed as a public document.

⁵ 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.

⁶ ICC-01/09-01/11-30, para. 2.

this reason, the Defence for Mr. Sang requests an extension of the time limit by 5 April 2011 at 16.00.⁷

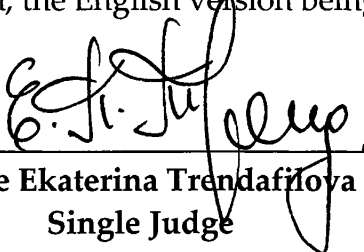
5. The Single Judge notes regulations 24(1), 34 and 35 of the Regulations of the Court (the "Regulations"). In particular, pursuant to regulation 35(2) of the Regulations, the Chamber may extend or reduce a time limit if good cause is shown.

6. After receipt of the Defence Request, the Single Judge has conducted queries within the Registry and has obtained information that electronic mail notifying the 1 April Decision was sent to the Defence for Mr. Sang on 1 April 2011 at 10.57 and that no error message was received by the Registry afterwards. Nevertheless, given the important nature of the issue under consideration and the short extension requested, the Single Judge accepts that good cause has been shown.

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

GRANTS the Defence for Mr. Sang until Tuesday, 5 April 2011 at 16.00 to file its response to the Registry's Submission.

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



Judge Ekaterina Trendafilova
Single Judge

Dated this Monday, 4 April 2011

At The Hague, The Netherlands

⁷ ICC-01/09-01/11-30, para. 8.