

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

**No. ICC-01/09-01/11 OA 7 OA 8
Date: 3 June 2014**

THE APPEALS CHAMBER

Before:
Judge Akua Kuenyehia, Presiding Judge
Judge Sang-Hyun Song
Judge Sanji Mmasenono Monageng
Judge Erkki Kourula
Judge Anita Ušacka

SITUATION IN THE REPUBLIC OF KENYA

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

Public document

**Decision on requests of Mr William Samoei Ruto and Mr Joshua Arap Sang for
extension of page limit for their documents in support of the appeal**

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

The Office of the Prosecutor
Ms Fatou Bensouda, Prosecutor
Ms Helen Brady

Counsel for Mr William Samoei Ruto
Mr Karim A. A. Khan
Mr David Hooper

Counsel for Mr Joshua Arap Sang
Mr Joseph Kipchumba Kigen-Katwa
Ms Caroline Buisman

REGISTRY

Registrar
Mr Herman von Hebel

The Appeals Chamber of the International Criminal Court,

In the appeals of Mr William Samoei Ruto and Mr Joshua Arap Sang against the decision of Trial Chamber V (A) entitled “Decision on Prosecutor’s Application for Witness Summonses and resulting Request for State Party Cooperation” dated 17 April 2014 (ICC-01/09-01/11-1274-Corr2),

Having before it the “Urgent Sang Defence Application for an Extension of the Page Limit for the Defence’s Appeal against the ‘Decision on Prosecutor’s Application for Witness Summonses and resulting Request for State Party Cooperation’” dated 29 May 2014 and registered on 30 May 2014 (ICC-01/09-01/11-1320),

Having before it the “Ruto Defence application to join the Urgent Sang Defence Application for an Extension of the Page Limit for the Defence’s Appeal against the ‘Decision on Prosecutor’s Application for Witness Summonses and resulting Request for State Party Cooperation’” of 30 May 2014 (ICC-01/09-01/11-1322),

Renders pursuant to regulation 37 (2) of the Regulations of the Court the following

DECISION

- 1) The page limits for the documents in support of the appeals of Mr William Samoei Ruto and Mr Joshua Arap Sang are extended by five pages each.
- 2) The Prosecutor may file a consolidated response to the documents in support of the appeals of no more than 45 pages.

REASONS

1. On 23 May 2014, Trial Chamber V (A) granted Mr William Samoei Ruto (hereinafter: “Mr Ruto”) and Mr Joshua Arap Sang (hereinafter: “Mr Sang”) leave to

appeal¹ its “Decision on Prosecutor’s Application for Witness Summonses and resulting Request for State Party Cooperation” dated 17 April 2014.²

2. Mr Sang filed before the Appeals Chamber the “Urgent Sang Defence Application for an Extension of the Page Limit for the Defence’s Appeal against the ‘Decision on Prosecutor’s Application for Witness Summonses and resulting Request for State Party Cooperation’” dated 29 May 2014 and registered on 30 May 2014³ (hereinafter: “Mr Sang’s Request for Page Extension”). He submits that there are “exceptional circumstances” in terms of regulation 37 (2) of the Regulations of the Court, justifying an extension of the page limit for his document in support of the appeal from 20 to 40 pages.⁴ In this regard, he argues that the appeal addresses a variety of novel and complex issues; he also recalls that the Impugned Decision itself is lengthy.⁵

3. On 30 May 2014, Mr Ruto filed the “Ruto Defence application to join the Urgent Sang Defence Application for an Extension of the Page Limit for the Defence’s Appeal against the ‘Decision on Prosecutor’s Application for Witness Summonses and resulting Request for State Party Cooperation’”⁶ (hereinafter: “Mr Ruto’s Request for Page Extension”). Mr Ruto also requests an extension of the page limit for his document in support of the appeal from 20 to 40 pages for the same arguments as those advanced by Mr Sang.⁷

4. On 2 June 2014, the Prosecutor filed the “Prosecution Response to the Defence Requests for an Extension of the Page Limit for the Defence Appeals against the ‘Decision on Prosecutor’s Application for Witness Summonses and resulting Request for State Party Cooperation’ and Prosecution Request for an Extension of the Page Limit and the Time Limit”⁸ (hereinafter: “Response”). She does not oppose the extension of the page limits for the documents in support of the appeals.⁹ Indicating

¹ “Decision on defence applications for leave to appeal the ‘Decision on the Prosecutor’s Application for Witness Summonses and resulting Request for State Party Cooperation’ and the request of the Government of Kenya to submit *amicus curiae* observations”, ICC-01/09-01/11-1313 (hereinafter: “Decision Granting Leave to Appeal”).

² ICC-01/09-01/11-1274-Corr2.

³ ICC-01/09-01/11-1320.

⁴ Mr Sang’s Request for Page Extension, para. 15.

⁵ Mr Sang’s Request for Page Extension, paras 10-13.

⁶ ICC-01/09-01/11-1322.

⁷ Mr Ruto’s Request for Page Extension, paras 4-6.

⁸ ICC-01/09-01/11-1328.

⁹ Response, para. 2.

that she would file a consolidated response to the two documents in support of the appeal, she also seeks an extension of the page limit for her response “to the combined total number of pages granted to the Defence for the purposes of filing their respective appeals”.¹⁰ In addition, the Prosecutor requests an extension of the time limit for the filing of her response to the documents in support of the appeals.¹¹

5. Pursuant to regulation 37 (2) of the Regulations of the Court, a Chamber may grant an extension of the page limits “in exceptional circumstances”. In the present case, the Appeals Chamber finds that, while the issues on appeal indeed appear to be novel and complex and that they establish “exceptional circumstances”, only a modest extension of the page limit is justified. The Appeals Chamber expects the parties to present their submissions in a concise and focussed manner, avoiding repetitions; accordingly, it considers that an extension of the page limits for the documents in support of the appeal by five pages to 25 pages is adequate and sufficient. In this regard, the Appeals Chamber also recalls regulation 36 (3) of the Regulations of the Court, according to which “[a]n average page shall not exceed 300 words”.

6. As regards the Prosecutor’s response to the documents in support of the appeals, the Appeals Chamber notes that she intends to file a consolidated response. As she will be responding to two appeals, the Appeals Chamber considers that this response may be 40 pages long. In addition, and in light of the extension granted to Mr Sang and Mr Ruto, the page limit for the Prosecutor’s consolidated response to the documents in support of the appeals is extended by five pages to a total of 45 pages. Given that there is likely to be overlap between the submissions of Mr Sang and Mr Ruto, the Appeals Chamber does not consider that a further extension of the page limit for the Prosecutor’s consolidated response is justified.

¹⁰ Response, para. 3.

¹¹ Response, para. 4.

7. The Appeals Chamber will decide separately on the Prosecutor's request for an extension of the time limit for the submission of her consolidated response.

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



Judge Akua Kuenyehia
Presiding Judge

Dated this 3rd June 2014

At The Hague, The Netherlands