

**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**

**Decision Reclassifying a Document and Requesting Information from the  
Registry with regard to the First Appearance of William Samoei Ruto, Henry  
Kiprono Kosgey and Joshua Arap Sang**

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

**Legal Representatives of the Victims**

**Unrepresented Victims**

**The Office of Public Counsel for Victims**

**States Representatives**

**Other**

**REGISTRY**

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**Registrar & Deputy Registrar**  
Silvana Arbia, Registrar  
Didier Preira, Deputy Registrar

**Victims and Witnesses Unit**

**Victims Participation and Reparations Section**

**Counsel for the Defence**

Joseph Kipchumba Kigen-Katwa  
Kioko Kilukumi Musau  
George Odinga Oraro

**Legal Representatives of the Applicants**

**Unrepresented Applicants for Participation/Reparation**

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

**Amicus Curiae**

**Defence Support Section**  
Esteban Peralta Losilla

**Detention Section**

**Other**  
Marc Dubuisson

**Judge Ekaterina Trendafilova**, acting as Single Judge<sup>1</sup> on behalf of Pre-Trial Chamber II (the “Chamber”) of the International Criminal Court (the “Court”) renders this decision reclassifying a document and requesting information from the Registry concerning the composition of the defence teams assisting William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang, respectively, during their first appearance before the Chamber.

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 Thursday, 7 April 2011 at 09.30 hours.<sup>2</sup>

2. On 30 March 2011, the Registry filed a document, marked *ex parte* and under seal, containing information submitted by the Counsel Support Section about the composition of the defence teams and the measures taken to accommodate them within the premises of the Court in view of the first appearance of William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang before the Chamber.<sup>3</sup>

3. The Single Judge notes article 60(1) of the Rome Statute, rule 121(1) of the Rules of Procedure and Evidence and regulation 23 *bis* of the Regulations of the Court (the “Regulations”).

4. The Single Judge observes that the document filed by the Registry is marked as “under seal” and “*ex parte*”, without providing any reason for such classification. The Single Judge reminds that, under regulation 23 *bis* of the Regulations, any document filed by the Registrar “shall state the factual and legal basis for the chosen classification”. Considering that the document filed by the Registry does not contain any sensitive information and cognizant of the principle of publicity of the proceedings, in the absence of any reason submitted by the Registry for the chosen

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<sup>1</sup> Pre-Trial Chamber II, “Decision Designating a Single Judge”, ICC-01/09-01/11-6.

<sup>2</sup> 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, p. 23.

<sup>3</sup> ICC-01/09-01/11-18-US-Exp.

classification the Single Judge considers it appropriate to reclassify the document as “public”.

5. Furthermore, the Single Judge notes that the document submitted by the Registry does not indicate the exact composition of the respective defence teams for the first appearance scheduled for 7 April 2011. The Single Judge is of the view that, in order to ensure the proper management and efficiency of the first appearance hearing, it is essential for the Chamber to receive from the Registry, at the latest by Tuesday 5 April at 12.00 hours, the exact composition of the defence teams assisting William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang, respectively, during their first appearance before the Chamber.

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

**orders** the Registry to inform the Chamber at the latest by **Tuesday 5 April at 12.00 hours** of the exact composition of the defence teams assisting William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang, respectively, during their first appearance before the Chamber;

**decides** to reclassify as “public” document ICC-01/09-01/11-18-US-Exp.

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



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Judge Ekaterina Trendafilova  
Single Judge

Dated this Friday, 1 April 2011  
At The Hague, The Netherlands