



Original: **English**

No.: **ICC-01/09-02/11**

Date: 16 May 2012

TRIAL CHAMBER V

Before: Judge Kuniko Ozaki, Presiding Judge
Judge Christine Van den Wyngaert
Judge Chile Eboe-Osuji

**SITUATION IN THE REPUBLIC OF KENYA
IN THE CASE OF THE PROSECUTOR V. FRANCIS KIRIMI MUTHAURA AND
UHURU MUIGAI KENYATTA**

Public Document
**Response to the “Request to Postpone Setting Trial Date Pending Appeals
Chamber’s Determination of Jurisdiction Appeal”**

Source: Victims’ Legal Representative

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

The Office of the Prosecutor

Mr. Luis Moreno-Ocampo, Prosecutor
Ms. Fatou Bensouda, Deputy Prosecutor
Ms. Adesola Adeboyejo, Trial Lawyer

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Mr. Steven Kay, QC, and Ms. Gillian
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Legal Representative of the Victims

Mr. Morris Anyah

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

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States Representative

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Ms. Silvana Arbia

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Victims and Witnesses Unit

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Detention Section

**Victims Participation and Reparations
Section**

Ms. Fiona McKay

Other

I. RESPONSE

1. This response is filed pursuant to Regulations 24 (2) and 34 (b) of the Regulations of the Court, in respect of the Defence's "Request to Postpone Setting Trial Date Pending Appeals Chamber's Determination of Jurisdiction Appeal."¹

2. The participating victims have reviewed and considered the Defence Request, in light of the position taken by the Prosecution on 9 February 2012 in response to substantially the same request by the Defence.² The Prosecution agreed with the Defence at the time that the interests of justice might exceptionally justify delaying the initiation of the trial proceedings in this case, raising itself the possibility that it might make a request to that effect or support a Defence request to that effect before the Trial Chamber.³

3. The victims have no reasonable basis to believe that the Prosecution's position is any different now than it was in February regarding the Defence Request. Accordingly, and both parties being essentially in accord regarding the Defence Request, the victims do not oppose the Defence Request.

Respectfully submitted,



Morris Anyah

Victims' Legal Representative

¹ "Request to Postpone Setting Trial Date Pending Appeals Chamber's Determination of Jurisdiction Appeal" (Hereafter, "Defence Request"), ICC-01/09-02/11-417, 25 April 2012.

² See, "Prosecution's Consolidated Response to Mr Muthaura's and Mr Kenyatta's Requests for Suspensive Effect of their Appeals on Jurisdiction (ICC-01/09-02/11-383 OA4)," ICC-01/09-02/11-398, 9 February 2012.

³ *Ibid.*, para. 10.

Dated this 16th day of May 2012

At The Hague, The Netherlands.