

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 6 June 2012

TRIAL CHAMBER V

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

SITUATION IN THE REPUBLIC OF KENYA

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

Public

Scheduling order and amended agenda for the status conference

Order to be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor

Mr Luis Moreno-Ocampo

Ms Fatou Bensouda

Counsel for William Samoei Ruto

Mr Kioko Kilukumi Musau

Mr David Hooper

Counsel for Joshua Arap Sang

Mr Joseph Kipchumba Kigen-Katwa

Mr Joel Kimutai Bosek

Legal Representatives of Victims

Ms Sureta Chana

Legal Representatives of 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

Ms Silvana Arbia

Deputy Registrar

Victims and Witnesses Unit

Ms Maria Luisa Martinod-Jacome

Detention Section

**Victims Participation and Reparations
Section**

Ms Fiona McKay

Others

1. In its “Order scheduling a status conference”, issued on 14 May 2012,¹ Trial Chamber V (“Chamber”) scheduled a status conference for 11 June 2012. The Chamber also issued an agenda for that status conference and requested the parties, participants and the Registry to make written submissions on some or all of the items on the agenda. It also requested them to indicate whether they wish to add other items to the agenda. The written submissions were filed on 28 May 2012, within the time limit set by the Chamber.²
2. The Chamber takes note of the written submissions of the parties, participants and the Registry. In view of these submissions, the Chamber will not require oral submissions on several of the items listed in its scheduling order. The Chamber notes that a number of other issues were raised in the written submissions. The Chamber will add some of these issues to the agenda of the status conference. The agenda shall be amended accordingly.
3. The Chamber therefore issues the following amended agenda for the status conference:
 - A. Date of the trial and the prosecution’s submissions on the issue of protection of witnesses;³
 - B. Timing, volume and format of disclosure of evidence by the prosecution pursuant to Rule 76 of the Rules of Procedure and Evidence (“Rules”);

¹ ICC-01/09-01/11-413.

² Prosecution’s Submissions on the Agenda for Status Conference, ICC-01/09-01/11-417, with confidential and confidential *ex parte* annexes; Written Submissions in Response to “Order Scheduling a Status Conference” [from the defence counsel for William Samoei Ruto], ICC-01/09-01/11-416; Written Submissions in Response to Order Scheduling a Status Conference [from the defence counsel for Joshua Arap Sang], ICC-01/09-01/11-415; Filing of the victims’ representative pursuant to the “Order scheduling a status conference”, ICC-01/09-01/11-419; Registry submissions following the “Order scheduling a status conference”, ICC-01/09-01/11-418 with an annex.

³ Reference is made to the prosecution’s submissions, ICC-01/09-01/11-417, paras 3, 11, 12.

- C. The prosecution's proposed "rolling disclosure" approach to disclosure of the identities of witnesses;⁴
- D. Material already disclosed and intended to be disclosed by the prosecution pursuant to Article 67(2) of the Rome Statute ("Statute") and Rule 77 of the Rules;
- E. The prosecution's proposal to adopt a new system for authorising and reviewing redactions to disclosed materials, and how this new system would be applied to redactions previously approved by the Pre-Trial Chamber;⁵
- F. Languages to be used in the proceedings, in particular, the languages spoken by the witnesses the parties intend to call and by any victims the legal representatives may seek authorisation to call;
- G. Whether the parties intend to make any objections or observations concerning the conduct of the proceedings which are still pending or have arisen since the confirmation hearing, pursuant to Rule 134(2) of the Rules;
- H. Whether the parties intend to make applications for a legal re-characterisation of facts under Regulation 55 of the Regulations of the Court;
- I. Whether the prosecution should file an amended document containing the charges, as required by other Trial Chambers in other trials before the International Criminal Court;
- J. Whether the parties and participants should be required to file written submissions on the legal definition of "organizational policy" and whether the Chamber should rule on the definition prior to the commencement of the trial.⁶

⁴ Reference is made to the prosecution's submissions, ICC-01/09-01/11-417, paras 16-17.

⁵ Reference is made to the prosecution's submissions, ICC-01/09-01/11-417, paras 19-23.

⁶ Reference is made to the submissions of the defence counsel for William Samoei Ruto, ICC-01/09-01/11-416, para. 22, and the submissions of the defence counsel for Joshua Arap Sang, ICC-01/09-01/11-415, para. 28.

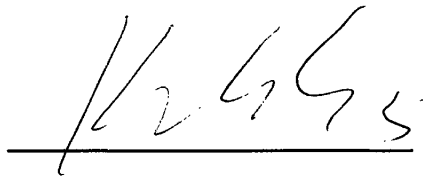
4. The Chamber notes that the prosecution intends to seek a ruling from the Chamber regarding the permissible scope of witness preparation.⁷ The prosecution is requested to make its written submissions on this issue no later than 13 August 2012. The defence for each accused and the legal representative of victims will have 21 days from the day of filing to respond to such submissions.
5. The defence for William Samoei Ruto submits that documents that are to be relied on by the prosecution should be translated by the Registry's translation service.⁸ The defence is directed to discuss this issue with the Registry.
6. The Chamber does not intend to discuss at the status conference the issue of legal aid for the legal representative of victims. It will not require the attendance of a representative of the Counsel Support Section.⁹
7. Having regard to the number of issues to be discussed at the status conference, the Chamber will hold the conference according to the following schedule:
 - 9.00 – 11.00 – public session,
 - 11.30 – 13.30 – public session.
8. In order to avoid disclosure of sensitive information regarding witness protection, an *ex parte* prosecution and Registry only session will be held between 15.00 and 16.30.

⁷ Prosecution's submissions, ICC-01/09-01/11-417, para. 40.

⁸ Submissions of the defence counsel for William Samoei Ruto, ICC-01/09-01/11-416, paras 17-18.

⁹ Reference is made to the legal representative's submissions, ICC-01/09-01/11-419, paras 18-19.

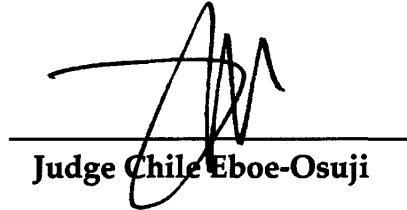
Done in both English and French, the English version being authoritative.



Judge Kuniko Ozaki, Presiding



Judge Christine Van den Wyngaert



Judge Chile Eboe-Osuji

Dated this 6 June 2012

At The Hague, The Netherlands