



Original: **English**

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

Date: **3 July 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. WILLIAM SAMOEI RUTO AND JOSHUA ARAP
SANG**

**Public
with Confidential Prosecution and Defence only Annex 1 and
Confidential, *Ex parte*, Prosecution only Annex 2**

Joint Submissions on Redactions

Source: The Office of the Prosecutor

Document 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. Cynthia Tai, Trial Lawyer

Counsel for the Defence

For William Samoei Ruto:

Mr. David Hooper
Mr. Kioko Kilukumi Musau

For Joshua Arap Sang:

Mr. Joseph Kipchumba Kigen-Katwa
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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 & Deputy Registrar

Ms. Silvana Arbia, Registrar
Mr. Didier Preira, Deputy Registrar

Defence Support Section

Victims and Witnesses Unit

Ms. Maria Luisa Martinod-Jacome

Detention Section

Victims Participation and Reparations Section

Other

Background

1. On 6 June 2012, the Trial Chamber issued a “Scheduling order and amended agenda for the status conference”, in which it requested the parties, amongst others, to make submissions on redactions.¹
2. On 11 June 2012, the Trial Chamber directed the parties and the Registry to liaise and find a compromise and agree on the implementation of a simplified, *inter partes*, disclosure/redaction regime to be submitted for the Chamber’s review by 3 July 2012².
3. The parties exchanged e-mails and on 28 June 2012 the Prosecution submitted a proposal to the Defence teams.
4. On 2 July 2012, the Ruto and Sang Defence teams commented on the proposal after working hours. The proposal containing the Prosecution’s proposal and the position of both Defence teams is attached hereto as Annex 1. Annex 1 identifies that the parties have agreed and disagreed to sections of the proposal. At this juncture, the Prosecution suggests that the Chamber review the proposal and render a decision that guides the parties.
5. This filing is a joint submission by the Defence and Prosecution insofar as the Defence’s comments have been integrated into the Prosecution’s Redaction Proposal.

Additional Confidential Ex Parte Annex 2

6. The Prosecution’s proposal includes relevant case-law that supports of the redaction categories, justifications and time-lines. Unfortunately some of the case-law cited cannot be provided to the Defence because of

¹ ICC-01/09-01/11-422, page 4.

² ICC-01/09-01/11-T-15-ENG ET, p. 21, lines 15-18

the *ex parte* nature of the decisions referenced, and because no public or redacted version exists.

7. Given that these restrictions don't apply to the Chamber, the Prosecution annexes the proposal with the *ex parte* decisions as Confidential, *ex parte* Annex 2. For sake of clarity and ease of reference, the Prosecution has highlighted the *ex parte* portions in yellow.

Request

8. The Prosecution respectfully requests that the Chamber rule on this matter.



Fatou Bensouda,
Prosecutor

Dated this 3rd day of July, 2012
At The Hague, The Netherlands