



Original: **English**

No.: **ICC-01/09-02/11**
Date: **12 October 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

Notification by the Victims' Legal Representative

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

Ms. Fatou Bensouda, Prosecutor
Ms. Adesola Adeboyejo, Trial Lawyer

Counsel for Francis Kirimi Muthaura

Mr. Karim A. A. Khan, QC, Mr. Essa M. Faal, Mr. Kennedy Ogetto, and Ms. Shyamala Alagendra

Counsel for Uhuru Muigai Kenyatta

Mr. Steven Kay, QC, and Ms. Gillian Higgins

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

Ms. Paolina Massidda

The Office of Public Counsel for the Defence

States Representative

Amicus Curiae

REGISTRY

Registrar

Ms. Silvana Arbia

Deputy Registrar

Mr. Didier Preira

Victims and Witnesses Unit

Ms. Maria Luisa Martinod-Jacombe

Defence Support Section

Detention Section

Victims Participation and Reparations Section

Ms. Fiona McKay

Other: Counsel Support Section

Mr. Esteban Peralta Losilla

I. NOTIFICATION

1. The undersigned Legal Representative hereby provides notice to the Chamber, the victims, and the parties in this case, of his written correspondence to the Registry dated 11 October 2012, requesting that he not be nominated to the Chamber for consideration for possible appointment as the Common Legal Representative for Victims during the trial proceedings in this case.
2. This notification is being provided for purposes of full transparency and consistently with counsel's obligations under Articles 17, 7, 11 and 15(2) of the Code of Professional Conduct for Counsel,¹ in order to keep the victims informed about developments regarding their legal representation before the Court and to provide re-assurance of counsel's intention to continue to fulfill his obligations to the victims and the Court, until such time that a new Common Legal Representative is appointed.
3. On 8 October 2012, the Registry invited the Legal Representative to provide indications regarding his interest and availability to continue to represent victims during the trial phase of the *Muthaura et al., case*, in the event that the Chamber were minded to re-appoint the Legal Representative. The inquiry from the Registry, and the Legal Representative's response thereto, were precipitated by the Chamber's 3 October 2012 Decision on victims' representation and participation.²
4. Having reviewed and given due consideration to the Decision, the Legal Representative is of the considered view that under the regime prescribed for the representation of victims by the Decision, he would not be able to apply the full measure of his legal abilities and experience on behalf of the victims at trial,

¹ "Code."

² ICC-01/09-02/11-498 ("Decision").

given the prescription in the Decision that advocacy inside the courtroom be undertaken on a day-to-day basis by the Office of Public Counsel for Victims (OPCV).³

5. Until such time that a new Common Legal Representative is appointed, the Legal Representative re-assures the victims and the Chamber that he will continue to fully discharge all obligations placed upon him under Articles 7, 9, 14, 15, and 17 of the Code, ensuring thereby that the legal interests of the victims are protected during this transitional period between legal representatives. In particular regard to Article 15(2) of the Code, the Legal Representative undertakes to keep the victims informed and to facilitate the orderly and smooth transfer of the case file and all relevant information to the appointed Common Legal Representative and the OPCV.
6. In closing, the Legal Representative wishes to indicate that it has been a distinct privilege for him and the members of his team to represent the victims of the post-election violence in Kenya during the past fourteen months.

Respectfully submitted,



Morris Azuma Anyah

Victims' Legal Representative

Dated this 12th day of October, 2012

³ See Decision, paras. 42, 69 – 71, and 73 – 75.

At The Hague, The Netherlands.