

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 3 July 2013

TRIAL CHAMBER V(B)

Before: Judge Kuniko Ozaki, Presiding Judge
Judge Robert Fremr
Judge Chile Eboe-Osuji

SITUATION IN THE REPUBLIC OF KENYA

**IN THE CASE OF
*THE PROSECUTOR v. UHURU MUIGAI KENYATTA***

Public

Decision on the Defence request to be provided with a chronological list of witness materials to be relied upon at trial

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

The Office of the Prosecutor

Ms Fatou Bensouda

Mr James Stewart

Ms Adesola Abedoyejo

Counsel for Uhuru Muigai Kenyatta

Mr Steven Kay

Ms Gillian Higgins

Legal Representatives of the Victims

Mr Fergal Gaynor

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 Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations Other
Section**

Trial Chamber V(B) (“Chamber”) of the International Criminal Court, in the case of *The Prosecutor v. Uhuru Muigai Kenyatta*, having regard to Article 67 of the Rome Statute and Rule 77 of the Rules of Procedure and Evidence hereby delivers the following Decision on the defence for Mr Kenyatta (“Defence”) request to be provided with a chronological list of witness materials to be relied upon at trial.

1. On 12 June 2013, the Defence requested the Chamber to order the Office of the Prosecutor (“Prosecution”) to specify, in chronological order, every transcript or statement attributable to each witness and whether it is to be relied upon at trial (“Request”).¹
2. On 20 June 2013, the Chamber reserved its decision on the Request until such time as the Prosecution would have had the opportunity to submit a response.² In its response, the Prosecution informed the Chamber that the Defence had been provided with the requested list on 25 June 2013 and accordingly advised that the Request may be denied as moot.³
3. In light of the Prosecution’s voluntary provision to the Defence of a chronological list specifying the witness transcripts and statements to be relied upon at trial, the Request has been rendered moot and need not be ruled upon.

FOR THE FOREGOING REASONS, THE CHAMBER

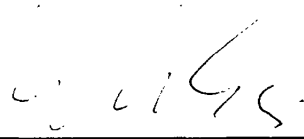
DISMISSES, as moot, the Defence Request.

¹ Response to the ‘Prosecution certification of review of its case file pursuant to Trial Chamber V’s 26 April 2013 order (ICC-01/09-02/11-728), ICC-01/09-02/11-759, paras 13 and 21.

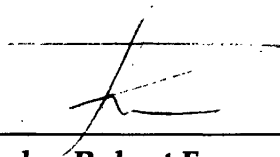
² Decision on commencement date of trial, ICC-01/09-02/11-Red, page 16.

³ Prosecution response to the Defence request for a list of witness statements and transcripts, 28 June 2013, ICC-01/09-02/11-766, para. 3.

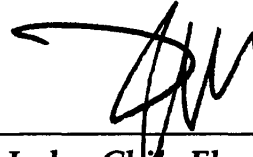
Done in both English and French, the English version being authoritative.



Judge Kuniko Ozaki, Presiding Judge



Judge Robert Fremr



Judge Chile Eboe-Osuji

Dated 3 July 2013

At The Hague, The Netherlands.