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

Date: 5 July 2013

TRIAL CHAMBER V(A)

Before: Judge Chile Eboe-Osuji, Presiding Judge
Judge Olga Herrera Carbuccion
Judge Robert Fremr

SITUATION IN THE REPUBLIC OF KENYA

**IN THE CASE OF
THE PROSECUTOR V. WILLIAM SAMOEI RUTO AND JOSHUA ARAP
SANG**

Public

With confidential *ex parte*, Prosecution, VWU, OPCV and CLR only Annex A

**Prosecution application to disclose lesser redacted versions of five victims'
application forms**

Source: The Office of the Prosecutor

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

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Other

1. In accordance with Article 64(6)(a) of the Rome Statute, Regulations 23*bis*, 33(1)(d) and 42 of the Regulations of the Court, and the Decision on the protocol establishing a redactions regime,¹ the Prosecution hereby requests authorisation from Trial Chamber V(A) (“Chamber”) to disclose lesser redacted version of five victims’ application forms (“application forms”) relating to Prosecution trial witnesses.

2. This application is made pursuant to an *inter partes* request from the Defence for SANG, which the Prosecution does not object to, for disclosure of lesser redacted versions of application forms of those applicants who are also deemed trial witnesses for the Prosecution. The Prosecution notes that a similar application was made and granted in the Kenya II case.²

3. The application forms in question were originally disclosed to the Defence with redactions consistent with the redacted versions of the annexes to the submissions of the Registry transmitting victims’ applications before Pre-Trial Chamber II (“Pre-Trial Chamber”). These applications were available to the Defence.³ In accordance with the Redactions Protocol, the Prosecution now seeks to disclose these applications with limited redactions applied to contact information of witnesses and innocent third parties only. The redactions as currently applied conceal information contained in the substantive sections of the application forms, which the Defence for SANG has advised is material to its preparations for trial.

4. In essence, the Prosecution now wishes to disclose information that is currently designated “*ex parte* VWU and OTP” in the Registry’s previous submissions. In an abundance of caution, due to the current classification of

¹ ICC-01/09-01/11-458.

² ICC-01/09-02/11-710.

³ ICC-01/09-01/11-141 and ICC-01/09-01/11-170.

these applications as contained in the Registry's annexes, the Prosecution is seeking the Chamber's permission to do so.

5. The authorisation to disclose with lesser redactions is requested for the following victims' applications, related to five Prosecution witnesses:

- **Witness P-0378⁴**
- **Witness P-0405⁵**
- **Witness P-0409⁶**
- **Witness P-0410⁷**
- **Witness P-0487⁸**

6. In order to minimize any delay in the resolution of this application, the Prosecution liaised in advance with the Common Legal Representative for the Victims ("CLR") so as to establish a mutually agreed position on the lesser redacted versions of these victims' applications. These observations were provided on 2 July 2013. The proposed lesser redactions can be inspected by the Chamber in the attached confidential *ex parte* (Prosecution, VWU, OPCV and CLR only) Annex A,⁹ which reflect the common proposal of the Prosecution and the CLR.

7. If the Chamber is minded to grant this application, the Prosecution is in a position to disclose these victims' applications to the Defence with the lesser redactions forthwith.

⁴ The application originally submitted in ICC-01/09-01/11-141, Annex 10. It should be noted that though P-0378 submitted a victim application form, this was rejected, and so this trial witness does not hold dual victim status.

⁵ The application originally submitted in ICC-01/09-01/11-170, Annex 1.

⁶ The application originally submitted in ICC-01/09-01/11-170, Annex 22.

⁷ The application originally submitted in ICC-01/09-01/11-170, Annex 115.

⁸ The application originally submitted in ICC-01/09-01/11-141, Annex 34. P-0487's application was also unsuccessful.

⁹ Proposed redactions are highlighted in green.

Relief Requested

8. The Prosecution respectfully requests that the Chamber grant authorisation to disclose the above mentioned victims' applications with the proposed and agreed lesser redactions.



Fatou Bensouda, Prosecutor

Dated this 5th day of July 2013
At The Hague, The Netherlands