

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 19 September 2013

THE APPEALS CHAMBER

Before: Judge Sang-Hyun Song, Presiding
Judge Sanji Mmasenono Monageng
Judge Akua Kuenyehia
Judge Erkki Kourula
Judge Anita Ušacka

SITUATION IN THE REPUBLIC OF KENYA

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

Public

Defence response to the “Joint *Amicus curiae* Observations of the United Republic of Tanzania, Republic of Rwanda, Republic of Burundi, State of Eritrea and Republic of Uganda on the Prosecution’s appeal against the ‘Decision on Mr. Ruto’s Request for Excusal from Continuous Presence at Trial’”

Source: Defence for Mr. William Samoei Ruto

Document 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
Mr. Anton Steynberg

Counsel for William Ruto

Mr. Karim A.A. Khan QC, Mr. David
Hooper QC, Mr. Essa Faal
Ms. Shyamala Alagendra

Counsel for Joshua Sang

Mr. Joseph Kipchumba Kigen-Katwa
Ms. Caroline Buisman

Legal Representatives of the Victims

Mr. Wilfred Nderitu

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

The Office of Public Counsel for Victims

Ms. Paolina Massidda

The Office of Public Counsel for the Defence

States' Representatives

REGISTRY

Amicus Curiae

United Republic of Tanzania
Republic of Rwanda
Republic of Burundi
State of Eritrea
Republic of Uganda

Registrar

Mr. Herman von Hebel

Counsel Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations Section
Other**

I. Submissions

1. The defence for Mr. William Samoei Ruto ("Defence") has observed that central to the determination of the *Prosecution's appeal against the "Decision on Mr Ruto's Request for Excusal from Continuous Presence at Trial"* ("Appeal")¹ is the interpretation of Article 63(1) of the Rome Statute ("Statute").² The Defence has also observed that the Appeal is the first time that Article 63 and its import has been judicially considered.³
2. Set in this context, the Defence welcomes submissions from any State which will assist the Appeals Chamber to determine the proper interpretation of Article 63(1).

Respectfully submitted,



Karim A.A. Khan QC
Lead Counsel for Mr. William Samoei Ruto

Dated this 19th Day of September 2013
At The Hague, The Netherlands

¹ ICC-01/09-01/11-831.

² ICC-01/09-01/11-932, para. 3.

³ ICC-01/09-01/11-685, para. 19.