



Original: English

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

Date: 19 December 2013

**TRIAL CHAMBER V(A)**

**Before:** Judge Chile Eboe-Osuji, Presiding  
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**

**Sang Defence Response to the Request pursuant to Article 63(1) of the Rome Statute and Rule 134<sup>quarter</sup> of the Rules of Procedure and Evidence to excuse Mr. William Samoei Ruto from attendance at trial, and the Office of the Prosecutor's Application for an extension of the time limit to respond.**

**Source:** Defence for Mr. Joshua arap Sang

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

**The Office of the Prosecutor**

Fatou Bensouda, Prosecutor  
James Stewart, Deputy Prosecutor  
Anton Steynberg, Senior Trial Attorney

**Counsel for William Ruto**

Karim Khan QC, David Hooper QC  
Shyamala Alagendra, Essa Faal

**Counsel for Joshua Sang**

Joseph Kipchumba Kigen-Katwa  
Caroline Buisman

**Legal Representatives of the Victims**

Wilfred Nderitu

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

**The Office of Public Counsel for  
Victims**

**The Office of Public Counsel for the  
Defence**

**States' Representatives**

**Amicus Curiae**

---

**REGISTRY**

---

**Registrar**

Herman von Hebel

**Counsel Support Section**

**Deputy Registrar**

Didier Daniel Preira

**Victims and Witnesses Unit**

Patrick Craig

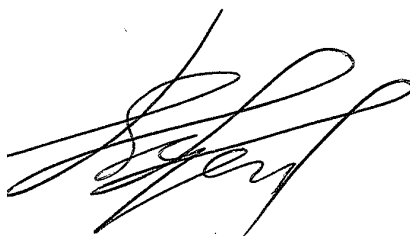
**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

## I. SUBMISSIONS

1. On 16 December 2013, the Defence for Mr. William Samoei Ruto applied for Mr. Ruto to be excused from attendance at trial, pursuant to Article 63(1) of the Rome Statute and Rule 134*quarter* of the Rules of Procedure and Evidence.<sup>1</sup>
2. The Defence for Mr. Joshua arap Sang ("the Defence") does not oppose this application. The Defence submits that Mr. Ruto has satisfied the conditions for excusal as contained in Article 63(1) of the Rome Statute and the newly adopted Rule 134*quarter*.
3. The Defence agrees that Rule 134*quarter* applies to this pending case. The Assembly of States Parties recently adopted this Rule, which is therefore presently in force. Given that it is not detrimental to the persons charged, Article 51(4) of the Rome Statute does not prevent Rule 134*quarter* from having immediate effect in the present proceedings.
4. In respect of the Office of the Prosecutor's application to extend the time limit in which to respond to this application,<sup>2</sup> the Defence submits that the concerns raised in the submissions in opposition to that application, filed by the Defence of Mr. Ruto,<sup>3</sup> are reasonable. This is a matter for the Trial Chamber and the Defence makes no further submissions in respect of that application.




---

Joseph Kipchumba Kigen-Katwa  
On behalf of Mr. Joshua arap Sang  
Dated this 19 December 2013  
In Nairobi, Kenya

---

<sup>1</sup> ICC-01/09-01/11-1124.

<sup>2</sup> ICC-01/-9-01/11-1125.

<sup>3</sup> ICC-01/-9-01/11-1126.