

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/09-01/11
Date: 20 December 2013

TRIAL CHAMBER V(A)

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

SITUATION IN THE REPUBLIC OF KENYA

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

Public

Order on the Prosecution's request for extension of time limit

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
Mr Anton Steynberg

Counsel for William Samoei Ruto

Mr Karim Khan
Mr David Hooper
Mr Essa Faal
Ms Shyamala Alagendra

Counsel for Joshua Arap Sang

Mr Joseph Kipchumba Kigen-Katwa
Ms Caroline Buisman

Legal Representatives of Victims

Mr Wilfred Nderitu

Legal Representatives of 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

Deputy Registrar

Victims and Witnesses Unit

Mr Patrick Craig

Detention Section

**Victims Participation and Reparations
Section**

Others

Trial Chamber V(A) (the 'Chamber') of the International Criminal Court (the 'Court'), in the case of *The Prosecutor v William Samoei Ruto and Joshua Arap Sang*, pursuant to Article 64(6)(f) of the Rome Statute, Rule 134*quater* of the Rules of Procedure and Evidence (the 'Rules') and Regulation 35(2) of the Regulations of the Court (the 'Regulations'), renders the following Order on the Prosecution's request for extension of time limit.

1. On 16 December 2013, the defence team for Mr Ruto ('Defence') filed the 'Defence Request pursuant to Article 63(1) of the Rome Statute and Rule 134*quater* of the Rules of Procedure and Evidence to excuse Mr. William Samoei Ruto from attendance at trial'¹ ('Request').
2. On 17 December 2013, the Office of the Prosecutor ('Prosecution') filed the 'Prosecution's request for extension of time limit',² in which it applied for a six-day time extension to file its response to the Request, rendering the deadline for filing 13 January 2014 ('Application'). The Prosecution makes the following submissions: '(i) the Defence's request engages novel issues before this Court; (ii) certain Prosecution staff are unavailable over the judicial recess to work on the response; and (iii) granting the requested extension will enable the Prosecution to make more concise and targeted submissions to assist the Chamber.'³
3. On 18 December 2013, the Defence filed the 'Defence response to Prosecution request for extension of time limit',⁴ arguing that the Prosecution has not shown good cause for an extension, and that the Chamber should reject the Application.⁵ The Defence submits that (1) the Request must be considered 'expeditiously' pursuant to the plain meaning of Rule 134*quater* of the Rules; (2) the Prosecution's extended deadline would prejudice Mr Ruto by requiring him to attend trial; and (3) the content of

¹ ICC-01/09-01/11-1124.

² ICC-01/09-01/11-1125. A corrigendum was subsequently filed, ICC-01/09-01/11-1125-Corr.

³ Application, ICC-01/09-01/11-1125-Corr, para. 3.

⁴ ICC-01/09-01/11-1126.

⁵ ICC-01/09-01/11-1126, paras 2 and 6.

Rule 134^{quarter} of the Rules has already been extensively debated at the Assembly of States Parties and 'it is reasonable to expect the Prosecution (...) to have put in place contingency measures for personnel to work on urgent matters over the holiday period.'⁶

4. Regulation 35(2) of the Regulations allows the Chamber to vary the time limits for documents filed with the Court, 'if good cause is shown'. The Chamber is satisfied that the Prosecution has met this requirement. The Chamber notes that the Request implicates novel issues to be brought before the Court and that Prosecution staff are unavailable during the judicial recess thereby reducing the manpower available to produce the response.
5. The Chamber is of the view that, in the circumstances, an extension by a few days will not prevent the Chamber from considering the Request expeditiously, as required by Rule 134^{quarter} of the Rules. With regard to the Defence's concerns that an extension of time will prejudice Mr Ruto, requiring him to attend trial when the Request might be granted, the Chamber notes that the Request was filed about three weeks after the adoption of the rule and less than a month before the hearing is expected to resume. Had the Request been filed earlier, the chances for its consideration before the hearing resumes would have been greater.

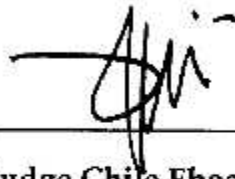
FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

EXTENDS the time limit for the Prosecution's response to the Request until 9 January 2014; and

INSTRUCTS the Defence that Mr Ruto is required to be present at trial pending a decision on the Request.

⁶ ICC-01/09-01/11-1126, paras 3-5.

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



Judge Chile Eboe-Osuji
(Presiding)



Judge Olga Herrera Carbuccion



Judge Robert Fremr

Dated 20 December 2013

At The Hague, The Netherlands