

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/09-02/11
Date: 6 February 2014

TRIAL CHAMBER V(B)

Before: Judge Kuniko Ozaki, Presiding Judge
Judge Robert Fremr
Judge Geoffrey Henderson

SITUATION IN THE REPUBLIC OF KENYA

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

Public

Order scheduling a status conference on 13 February 2014

Order 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 Benjamin Gumpert

Counsel for Uhuru Muigai Kenyatta

Mr Steven Kay

Ms Gillian Higgins

Legal Representatives of Victims

Mr Fergal Gaynor

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

Mr Githu Muigai, SC, Attorney General
of the Republic of Kenya

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Others

Trial Chamber V(B) ('Chamber')¹ of the International Criminal Court in the case of *The Prosecutor v. Uhuru Muigai Kenyatta*, in accordance with Rule 132(2) of the Rules of Procedure and Evidence, hereby issues this 'Order scheduling a status conference on 13 February 2014'.

1. On 29 November 2013, the Office of the Prosecutor ('Prosecution') filed the confidential *ex parte*, Prosecution and Government of the Republic of Kenya ('Kenyan Government') only, 'Prosecution application for a finding of non-compliance pursuant to Article 87(7) of the Statute against the Government of Kenya' ('Application').²
2. On 9 December 2013, the Chamber issued a decision inviting the Kenyan Government and the Registry to submit any observations they may have on the Application, no later than 8 January 2014.³
3. On 9 January 2014, the Registry submitted that the request for assistance referred to in the Application was transmitted to the Kenyan Government pursuant to Article 54 of the Rome Statute, rather than by the Registry, and consequently the Registry had no observations to make in respect of it.⁴ The Registry simultaneously conveyed, in the form of a confidential Annex 2, the response of the Kenyan Government to the Application ('Response').⁵

¹ Where 'Chamber' is used in this decision it refers to both Trial Chamber V(b) in its composition as until 31 January 2014 and to Trial Chamber V(b) as composed by the Presidency's 'Decision replacing a Judge in Trial Chamber V(b)', 30 January 2014, ICC-01/09-02/11-890.

² Application, ICC-01/09-02/11-866-Conf-Exp. A public redacted version was filed on 2 December 2013 (ICC-01/09-02/11-866-Red).

³ Decision requesting observations from the Government of Kenya, ICC-01/09-02/11-870.

⁴ Registry's report pursuant to the 'Decision requesting observations from the Government of Kenya' dated 9 December 2013, ICC-01/09-02/11-877. The Registry's report was filed on 8 January 2014 and notified on 9 January 2014.

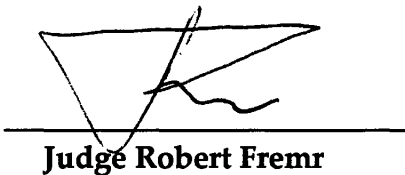
⁵ Response, ICC-01/09-02/11-877-Conf-Anx2. On 30 January 2014, the Chamber directed the Registry to prepare a public redacted version of this filing, Decision on the Prosecution request for leave to reply to the Government of Kenya's observations, ICC-01/09-02/11-891.

4. On 14 January 2014, the Prosecution sought leave to reply to four arguments raised in the Response.⁶ On 3 February 2014, following leave to reply having been granted by the Chamber,⁷ the Prosecution filed a reply to the Response.⁸
5. The Chamber considers that it would benefit from hearing oral submissions in relation to the Application, including from the Kenyan Government, and therefore hereby convenes a status conference to be held on Thursday 13 February 2014, from 9h30.⁹
6. The parties, the Legal Representative for Victims and a representative of the Kenyan Government are invited to attend. The discussion will, in principle, take place in public session.
7. The presence of Mr Kenyatta is not required on this occasion.

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



Judge Kuniko Ozaki, Presiding Judge



Judge Robert Fremr



Judge Geoffrey Henderson

Dated 6 February 2014

At The Hague, The Netherlands

⁶ Prosecution request for leave to reply to the Government of Kenya's Observations, ICC-01/09-02/11-880-Conf.

⁷ Decision on the Prosecution request for leave to reply to reply to the Government of Kenya's observations, ICC-01/09-02/11-891.

⁸ Prosecution reply to the Government of Kenya's 20 December 2013 observations, ICC-01/09-02/11-894.

⁹ During the hearing on 5 February 2014, the Chamber indicated its intention to shortly convene a status conference in relation to the Application, Transcript of hearing on 5 February 2014, ICC-01/09-02/11-T-27.