

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/09-02/11

Date: 1 May 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**

Confidential

Ex parte to Dr. David Nyekorach-Matsanga and the Registry only

with one confidential annex *ex parte* available to Dr. David Nyekorach-Matsanga
and the Registry only

Registry Transmission of a document received from Dr. David Nyekorach-
Matsanga on 28 April 2014

Source: The Registry

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

The Office of the Prosecutor

Counsel for the Defence

Legal Representatives of the Victims

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

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other
Dr. David Nyekorach-Matsanga

The Registry of the International Criminal Court (the “Court”);

CONSIDERING that the Registry received, on 28 April 2014 at 17.10 hours, a document submitted by Dr. David Nyekorach-Matsanga entitled “*A motion of Amicus Curiae in the Trial Chamber 5 (Vb) (‘the court’) by Dr. David Nyekorach Matsanga in case No. ICC-01/09 OA2 (‘the case’) in the Situation in Kenya to aid and shed light to the court on why Financial statements (‘records’) are not germane to the case and thus may not be entertained or otherwise used to determine Mr. Uhuru Muigai Kenyatta’s case. This considering the uncontested fact that the only Financial information that would render the sought records relevant in the case was solely obtained and introduced into the case through materially and irredeemably compromised ‘would-be but withdrawn’ lying witnesses to wit: OTP4, OTP11, OTP12 each of whom the OTP itself has discredited as entirely unreliable and liars.*”¹ (the “Motion”);

CONSIDERING that Mr. Nyekorach-Matsanga, in his email of 28 April 2014, requested the Motion to be notified to the judges of Trial Chamber V (b);

CONSIDERING that the above-mentioned Motion is classified by Mr Nyekorach-Matsanga as public but that it seems that the Motion relates to confidential information;

NOTING rule 13 (1) of the Rules of Procedure and Evidence and regulations 24bis and 23bis of the Regulations of the Court;

SUBMITS therefore the Motion as confidential *ex parte* only available Dr. David Nyekorach-Matsanga and the Registry and remains at the Chamber’s disposal should the Chamber order the reclassification of the said document as public;

¹ Annex 1.

TRANSMITS, respectfully, to the Trial Chamber the above-mentioned Motion in annex 1 to this present document.



PP Marc Dubuisson, Director of the Division of Court Services
per delegation of
Herman von Hebel, Registrar

Dated this 1 May 2014

At The Hague, The Netherlands