



Original: English

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

Date: 12 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***

Public

Order further extending deadline for filing of first update due on 30 April 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

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Others

Trial Chamber V(B) ('Chamber') of the International Criminal Court in the case of *The Prosecutor v. Uhuru Muigai Kenyalla*, in accordance with Regulation 35(2) of the Regulations of the Court ('Regulations'), hereby issues this 'Order further extending deadline for filing of first update due on 30 April 2014'.

1. On 31 March 2014 the Chamber issued a decision¹ directing the Office of the Prosecutor ('Prosecution') and the Government of the Republic of Kenya ('Kenyan Government') to file submissions updating the Chamber on the status of a revised Prosecution request for cooperation on a two monthly basis, with the first update due on 30 April 2014 ('First Update'). Following a Prosecution request,² the Chamber subsequently extended this filing deadline to 15 May 2014,³ accepting that the deferral would allow the Chamber to be more fully apprised of the status of cooperation between the Prosecution and the Kenyan Government in execution of the revised Prosecution's request.⁴
2. On 8 May 2014 the Prosecution filed a request to further postpone the date for the filing of the First Update, until 23 May 2014 ('Request').⁵ The Prosecution submitted that, in light of the information received by it from the Kenyan Government, the proposed meeting between them would not now take place within the timeframe originally anticipated, but that new dates acceptable to both of them have been identified.⁶ The Prosecution further submitted that there will be no substantive further progress in the implementation of the Decision until that time, and therefore

¹ Decision on Prosecution's applications for a finding of non-compliance pursuant to Article 87(7) and for an adjournment of the provisional trial date, 31 March 2014, ICC-01/09-02/11-908 ('Decision').

² Prosecution application to adjourn until 12 May the provision of the update due on 30 April, ICC-01/09-02/11-911-Conf.

³ Urgent Confidential Order extending deadline for filing of first update due on 30 April 2014, 30 April 2014, ICC-01/09-02/11-912-Conf.

⁴ ICC-01/09-02/11-912-Conf, para. 4.

⁵ Prosecution application to further adjourn until 23 May the provision of the update originally due on 30 April, ICC-01/09-02/11-917-Conf.

⁶ Request, ICC-01/09-02/11-917-Conf, paras 2-5.

requested an extension of the deadline for filing the First Update.⁷ The Prosecution stated that the extension would allow both the Prosecution and the Kenyan Government to inform the Chamber of the progress they each consider has been made at the meeting in order for the Chamber to be fully apprised of the updated status of the implementation of the Decision.⁸

3. The Chamber notes that the Prosecution informed the Kenyan Government of its intention to seek this extension of the filing deadline,⁹ and, given the nature of the Request, the Chamber will not require submissions to decide on it. Further, although this order refers to confidential filings the Chamber does not consider that any of the information mentioned may not properly be disclosed.¹⁰
4. Under the circumstances, and in view of the fact that a suitable date for the meeting has now been identified, the Chamber considers that there is good cause to further defer the deadline for filing the First Update. However, the Chamber considers it necessary to underline its direction to both the Prosecution and the Kenyan Government that cooperation is to be conducted in good faith and in an expeditious manner.¹¹
5. Consequently, and pursuant to Regulation 35(2) of the Regulations, the Chamber orders that the First Update due from the Prosecution and the Kenyan Government be submitted no later than Friday, 23 May. This extension of deadline does not impact the due date for the subsequent reports to be filed on a two monthly basis from 30 April 2014 as directed in the Decision.

⁷ Request, ICC-01/09-02/11-917-Conf, paras 6-7.

⁸ Request, ICC-01/09-02/11-917-Conf, para. 7.

⁹ Request, ICC-01/09-02/11-917-Conf, para. 4.

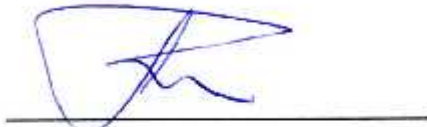
¹⁰ The Chamber notes that any confidentiality obligations pursuant, in particular, to Article 87(3) of the Rome Statute continue to apply.

¹¹ Decision, ICC-01/09-02/11-908, paras 101 and 103.

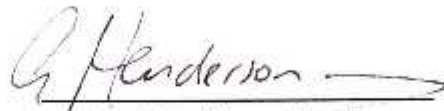
Done in both English and French, the English version being authoritative.



Judge Kuniko Ozaki, Presiding Judge



Judge Robert Fremr



Judge Geoffrey Henderson

Dated 12 May 2014

At The Hague, The Netherlands