

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 12 June 2014

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

**Defence submissions on level of confidentiality of documents admitted pursuant
to Decision ICC-01/09-01/11-1353**

Sources: Defence for Mr. William Samoei Ruto

Document 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 A. A. Khan QC
Mr. David Hooper QC
Mr. Essa Faal
Dato' Shyamala Alagendra

Counsel for Joshua Arap Sang

Mr. Joseph Kipchumba Kigen-Katwa
Ms. Caroline Buisman

Legal Representatives of the Victims

Mr. Wilfred Nderitu

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

Ms. Paolina Massida

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr. Herman von Hebel

Counsel Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. Introduction

1. Pursuant to the Trial Chamber's direction, the defence for Mr. William Samoei Ruto ("Defence") hereby provides its submissions on the appropriate level of confidentiality for the items admitted under the *Decision on the Prosecution's Request for Admission of Documentary Evidence* ("Decision").¹

II. Submissions

2. The Defence submits that the document referred to at paragraph 77 of the Decision which is an official press release of the CIPEV explaining its role and function (KEN-OTP-0003-0419) should be designated as public rather than confidential.² The document was prepared for the media and, thus, it is assumed, general dissemination in the public domain. Further, from a review, the document, it does not contain any sensitive information. In this regard, the Defence notes the email address on page 2 of the document is generic. The Defence also assumes that the telephone and fax numbers on page 3 of the document are historic, were created as points of public contact for use by the commission and are no longer in use.
3. The Defence also advises that it understands that two of the items admitted pursuant to the Decision are already in evidence as Prosecution exhibits. Item 28 (KEN-OTP-0011-0196) is EVD-T-OTP-00016 and item 29 (KEN-OTP-0011-0640) is EVD-T-OTP-00060.

III. Conclusion

4. The Defence submits that the document KEN-OTP-0003-0419 should be designated as public rather than confidential.

¹ ICC-01/09-01/11-1353.

² The ERN for this document is included in the list of confidential documents. See Decision, p. 44.

Respectfully submitted,

A handwritten signature in black ink, consisting of a stylized 'K' followed by a horizontal line.

Karim A.A. Khan QC

Lead Counsel for Mr. William Samoei Ruto

Dated this 12th Day of June 2014
At The Hague, Netherlands