



Original: English

No.: ICC-01/09-02/11
Date: 27 October 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
with Confidential Annexes A and B

Prosecution request for reclassification**

Source: The Office of the Prosecutor

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

The Office of the Prosecutor

Fatou Bensouda
James Stewart
Benjamin Gumpert

Counsel for Uhuru Muigai Kenyatta

Steven Kay
Gillian Higgins

Legal Representatives of Victims

Fergal Gaynor

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Paolina Massidda
Caroline Walter

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

States Representatives

Amicus Curiae

REGISTRY

Registrar

Herman von Hebel

Defence Support Section

Victims and Witnesses Unit

Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Fiona McKay

Other

Introduction

1. Pursuant to Trial Chamber V(b) (“Chamber”)’s order of 21 October 2014¹ and Regulation 23*bis*(3) of the Regulations of the Court, the Office of the Prosecutor (“Prosecution”) requests the Chamber to reclassify as “public” a document relating to the Court’s efforts to identify, trace, freeze or seize Mr Kenyatta’s assets (ICC-01/09-02/11-16-US-Exp), and to approve two public redacted versions of documents related to the same (ICC-01/09-02/11-906-Conf and ICC-01/09-02/11-914-Conf). These proposed public redacted version documents are attached as Annexes A and B to this submission.

Confidentiality

2. Annexes A and B are designated “Confidential” because the documents contained in those annexes bear those classifications.

Submissions

3. The Chamber’s 21 October 2014 order reclassified certain documents related to the Court’s efforts to identify, trace, freeze or seize Mr Kenyatta’s assets and instructed the parties, participants and Registry “to request reclassification of any related documents as necessary”.² The Prosecution has identified three Prosecution filings that can be made public or filed in public redacted form.
4. Filing ICC-01/09-02/11-16-US-Exp can be reclassified as “public” in its entirety.
5. Filing ICC-01/09-02/11-906-Conf (attached as Annex A) refers to ICC-01/09-02/11-905-US-Exp-AnxIII,³ a submission that is currently classified as “under

¹ ICC-01/09-02/11-967.

² ICC-01/09-02/11-967, pp. 8-9.

³ See ICC-01/09-02/11-906-Conf, paras. 1, 5, 7, 10 & nn. 1, 8, 10, 16.

seal, *ex parte*". If ICC-01/09-02/11-905-US-Exp-AnxIII is reclassified as public, then filing 906 can be reclassified as public in its entirety. If, however, the Chamber opts to keep ICC-01/09-02/11-905-US-Exp-AnxIII confidential, then the Prosecution proposes to file the public redacted version attached as Annex A.

6. Finally, filing ICC-01/09-02/11-914-Conf can be made public with some redactions applied to heading A since it was quoted directly from the Registry submission⁴ which is currently classified as "confidential", and to paragraph 6, the disclosure of which may affect other proceedings. The Prosecution therefore proposes to file a public redacted version of ICC-01/09-02/11-914-Conf, attached Annex B, which it asks the Chamber to approve.

Conclusion

7. The Prosecution requests the Chamber to reclassify ICC-01/09-02/11-16-US-Exp as public and to approve the proposed public redacted versions of ICC-01/09-02/11-906-Conf and ICC-01/09-02/11-914-Conf, attached as Annexes A and B respectively.



Fatou Bensouda,
Prosecutor

Dated this 27th day of October 2014
At The Hague, The Netherlands

⁴ ICC-01/09-02/11-905-Conf, para. 3.