



Original: English

No.: ICC-01/09-02/11
Date: 11 November 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 Annex A**

**Prosecution's response to the Defence's and the Common Legal
Representative's requests for reclassification**

Source: The Office of the Prosecutor

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

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Introduction

1. The Office of the Prosecutor (“Prosecution”) hereby responds to the request for reclassification by the Defence and the Common Legal Representative (“CLR”) following the order of Trial Chamber V(B) (“Chamber”) on 21 October 2014.

Confidentiality

2. The annex to this filing is classified as confidential because information therein tends to identify individuals who may be placed at risk if their identities were disclosed.

Submissions

3. Pursuant to the Chamber’s order,¹ on 27 October 2014 the Defence requested the Chamber to reclassify document ICC-01/09-02/11-915-Conf and its Annex A as public.² The Prosecution does not oppose the Defence’s request.
4. The CLR, in his filing of 30 October 2014,³ requested the Chamber to reclassify a number of documents and annexes as public. The Prosecution observes that these documents were filed by the Chamber, the Registry, the Government of Kenya and the CLR himself. In the Prosecution’s view, it is up to the creators of these documents to determine which of them can be reclassified as public or publicly redacted. However, the Prosecution does not oppose the CLR’s request.
5. In the same filing, the CLR requested the Chamber to order the Prosecution to submit a public redacted version of the Prosecution’s second updated pre-trial brief (“PTB”). The Prosecution reiterates its position as submitted

¹ ICC-01/09-02/11-967.

² ICC-01/09-02/11-969.

³ ICC-01/09-02/11-970-Conf.

at the 9 July 2014 status conference,⁴ that the public redacted version of the PTB has been prepared. The Prosecution refrains from submitting it because the Defence, in its letter of 29 August 2013,⁵ opposed the filing of a public redacted version of the PTB. The Prosecution is ready to file a publicly redacted version, should the Chamber so order.

Conclusion

6. The Prosecution does not oppose the request by the Defence and the CLR to reclassify a number of documents and annexes as public, nor does it oppose the CLR's second request for the public redacted version of the Prosecution's PTB to be filed.



Fatou Bensouda,
Prosecutor

Dated this 11th day of November 2014
At The Hague, The Netherlands

⁴ ICC-01/09-02/11-T-30-ENG ET WT, p. 9, lines 18-22.

⁵ See Confidential Annex to this filing.