

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 6 February 2015

**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**

**Decision on the Ruto Defence Request for Materials Related to  
Witness 743 to be Accepted into Evidence and Assigned Evidence (EVD) Numbers**

Decision 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 Khan

Mr David Hooper

Mr Essa Faal

Ms Shyamala Alagendra

**Counsel for Joshua Arap Sang**

Mr Joseph Kipchumba Kigen-Katwa

Ms Caroline Buisman

**Legal Representatives of Victims**

Mr Wilfred Nderitu

**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**

*Amicus Curiae*

**REGISTRY**

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**Registrar**

Mr Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

Mr Nigel Verrill

**Detention Section**

**Victims Participation and Reparations  
Section**

**Others**

**Trial Chamber V(A)** (the 'Chamber') of the International Criminal Court, in the case of *The Prosecutor v William Samoei Ruto and Joshua Arap Sang*, pursuant to Articles 64(9)(a) and 69(4) of the Rome Statute, renders this 'Decision on the Ruto Defence Request for Materials Related to Witness 743 to be Accepted into Evidence and Assigned Evidence (EVD) Numbers'.

1. On 29 January 2015, during the testimony of Witness 743, the Presiding Judge indicated that four Victims and Witnesses Unit (the 'VWU') documents related to Witness 743 should be put in the record. Accordingly, and given that the documents were not yet uploaded in the E-court system at the time of the testimony, the defence for Mr Ruto (the 'Ruto Defence') proposed that their admission be requested by way of written filing. The Presiding Judge endorsed this procedure.<sup>1</sup>
2. On 2 February 2015, the Ruto Defence requested the admission of the aforesaid VWU documents, as confidential exhibits in the case (the 'Request').<sup>2</sup> Accordingly, it requested that the following exhibits be assigned evidence (EVD) numbers: (i) KEN-D09-0045-0435\_R01; (ii) KEN-D09-0045-0437\_R01; (iii) KEN-D09-0045-0439\_R01; and (iv) KEN-D09-0045-0442\_R01.
3. On that same date, the Prosecution and the defence team for Mr Sang (the 'Sang Defence') confirmed via email that they have no objections to the Ruto Defence Request.<sup>3</sup>
4. The Chamber notes that the four VWU documents were used during the examination of Witness 743 and that the Presiding Judge indicated during the testimony of this witness that these should be put in the record of the case.<sup>4</sup>

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<sup>1</sup> ICC-01/09-01/11-T-189-CONF-ENG, page 88, line 23 to page 89, line 7.

<sup>2</sup> Ruto Defence request for materials related to Witness P-0743 to be accepted into evidence and assigned evidence (EVD) numbers, ICC-01/09-01/11-1802-Conf.

<sup>3</sup> Email communication from the Prosecution to Trial Chamber V-A Communications at 15:29 and email communication from the Sang Defence to Trial Chamber V-A Communications at 16:22.

5. The Chamber has also taken into consideration that no party objects to the Request.
6. The Chamber therefore admits the VWU documents listed in paragraph 2 as confidential exhibits. Accordingly, EVD numbers shall be assigned.

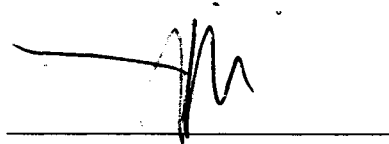
**FOR THE FOREGOING REASONS, THE CHAMBER HEREBY**

**GRANTS** the Request;

**DIRECTS** the Registry to assign EVD numbers to the items listed in paragraph 2 above;

**DIRECTS** the Registry to confirm these numbers have been assigned via a written filing no later than 13 February 2015.

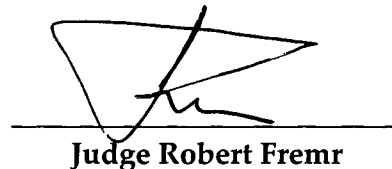
Done in both English and French, the English version being authoritative.



**Judge Chile Eboe-Osuji**  
(Presiding)



**Judge Olga Herrera Carbuccion**



**Judge Robert Fremr**

Dated 6 February 2015

At The Hague, The Netherlands

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<sup>4</sup> ICC-01/09-01/11-T-189-CONF-ENG, page 88, line 23 to page 89, line 7.