

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 16 April 2015

TRIAL CHAMBER V(A)

Before: Judge Chile Eboe-Osuji, Presiding
Judge Olga Herrera Carbuca
Judge Robert Fremr

SITUATION IN THE REPUBLIC OF KENYA

IN THE CASE OF
THE PROSECUTOR v. WILLIAM SAMOEI RUTO and JOSHUA ARAP SANG

Confidential

**Decision on the Prosecution application for delayed disclosure of records of
interviews with two witnesses**

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

Ms Paolina Massidda

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

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

REGISTRY

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*, having regard to Article 64(2) and (10) of the Rome Statute, renders this 'Decision on the Prosecution application for delayed disclosure of records of interviews with two witnesses'.

1. On 1 April 2015, the Office of the Prosecutor ('Prosecution') submitted a confidential *ex parte* application¹ seeking authorisation from the Chamber to delay disclosure to the defence of the records of interviews with two witnesses, Witness 252 and Witness 516, until 10 April 2015 or until such time as the Victims and Witnesses Unit ('VWU') finalises the implementation of the necessary protective measures to ensure the security and safety of both witnesses and their families ('Request').²
2. Upon direction of the Chamber,³ the VWU filed its observations on 10 April 2015 ('Observations').⁴ It submits that it has taken steps to secure the witnesses and other persons at risk and thus disclosure of the witnesses' identities and identifying information may take place.⁵
3. On the same day, the Prosecution informed the Chamber that, taking into account the VWU's Observations, it is effecting disclosure of the material in question forthwith.⁶
4. Accordingly, the Chamber considers the Request to be moot.

¹ Prosecution's application for delayed disclosure of records of interviews with two witnesses, ICC-01/09-01/11-1850-Conf-Exp, with confidential *ex parte* Annexes A and B.

² Request, ICC-01/09-01/11-1850-Conf-Exp, paras 1 and 42.

³ Email from Legal Officer of the Chamber to the VWU on 7 April 2015, at 17:43.

⁴ Victims and Witnesses Unit's observations on the "Prosecution's application for delayed disclosure of records of interviews with two witnesses ICC-01/09-01/11-1850-Conf-Exp", ICC-01/09-01/11-1856-Conf-Exp.

⁵ Observations, ICC-01/09-01/11-1856-Conf-Exp, paras 1 and 2.

⁶ Email to Trial Chamber V(A) Communications on 10 April 2015, at 17:18.

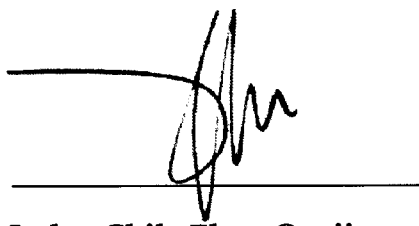
5. The Chamber further notes that only confidential *ex parte* versions of the Request and the Observations were submitted and directs the Prosecution and VWU to file confidential-redacted versions into the record.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

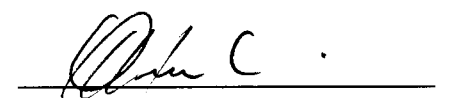
DECLARES the Request to be moot; and

DIRECTS the Prosecution and the VWU to file confidential-redacted versions of the Request and the Observations into the record.

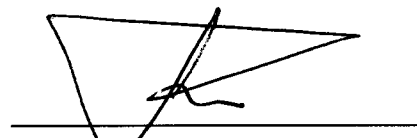
Done in both English and French, the English version being authoritative.



Judge Chile Eboe-Osuji
(Presiding)



Judge Olga Herrera Carbuccion



Judge Robert Fremr

Dated 16 April 2015

At The Hague, The Netherlands