

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 4 August 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

**Public Redacted Version of
“Provision of Information relevant to Ruto Defence Request for Sanctions (ICC-
01/09-01/11-1425-Conf-Corr)”, 22 September 2014, ICC-01/09-01/11-1519-Conf**

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

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Mr. James Stewart
Mr. Anton Steynberg

Counsel for William Samoei Ruto

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Mr. David Hooper QC
Mr. Essa Faal
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Mr. Joseph Kipchumba Kigen-Katwa
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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. On 10 July 2014, the Defence for Mr. William Samoei Ruto ("Defence") submitted its *Provision of Information related to Witness [REDACTED] and Request for Sanctions against the Prosecutor and/or OTP Staff Members* ("Defence Request for Sanctions").¹ The complaint in the Defence filing related to, *inter alia*, the oral submissions of Prosecution Counsel, [REDACTED], that [REDACTED] was [REDACTED]. The Defence complaint was that those submissions by [REDACTED] were unsupported and wholly inaccurate when viewed against other Prosecution disclosure in this case.²
2. On 25 July 2014, the Prosecution submitted its *Opposition to the Ruto Defence's request for Sanctions*³ in which the Prosecution maintained that [REDACTED] was [REDACTED] and that [REDACTED] oral submissions on the matter were wholly accurate.⁴

II. Submissions

3. The Defence submits that during oral submissions in Court today, 22 September 2014, Lead Prosecution Counsel, Mr. Anton Steynberg, explicitly stated that it was the Prosecution that [REDACTED] the witness ([REDACTED]) and that the [REDACTED].⁵ The Defence submits that Mr. Steynberg has, therefore, made matters patently clear that the reason [REDACTED] was not called as a witness in this case is because the Prosecution decided to [REDACTED]⁶ as submitted by [REDACTED] on [REDACTED] 2014.

¹ ICC-01/09-01/11-1425-Conf-Corr.

² ICC-01/09-01/11-1425-Conf-Corr, paras. 10, 13, 15, 16, 19 and 21.

³ ICC-01/09-01/11-1446-Conf-Red.

⁴ ICC-01/09-01/11-1446-Conf-Red, paras. 6, 8, 48, 49 and 55.

⁵ Transcript of Proceedings for 22 September 2014, p. 48 lines 19 to p. 49 lines 2.

⁶ [REDACTED]

4. The Defence notes with concern that this is the first time that the Defence has been informed that the reason [REDACTED] was not called and was [REDACTED] was because the Prosecution [REDACTED]. This is not only contrary to [REDACTED] oral submissions but is also contrary to the Prosecution's previous written submissions on the matter.⁷
5. The Defence submits that the matters stated in paragraph 3 above are directly relevant to the complaint in the Defence Request for Sanctions and supports the submissions of the Defence therein. Accordingly, the Defence respectfully requests that the Chamber take into consideration these additional submissions when deciding on the Defence Request for Sanctions

Respectfully submitted,



Karim A.A. Khan QC

Lead Counsel for Mr. William Samoei Ruto

Dated this 4th Day of August 2015

At The Hague, Netherlands

⁷ ICC-01/09-01/11-811-Conf-Red, para. 4 and ICC-01/09-01/11-866-Conf-Red2, para. 23.