

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/09-01/11
Date: 26 November 2015

TRIAL CHAMBER V(A)

Before: Judge Chile Eboe-Osuji, Presiding Judge
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***

**Confidential
With Confidential Annex A**

Prosecution's Request to vary protective measures

Source: 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

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REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Deputy Registrar

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

Victims Participation and Reparations Section

Other

Introduction

1. The Prosecution seeks the Chamber's permission to lift certain redactions in the Public redacted version of the "Prosecution's consolidated response to 'Corrigendum of Ruto Defence Request for Judgment of Acquittal' and 'Sang Defence 'No Case to Answer' Motion'" ("NCTA Response").¹

Confidentiality

2. The Prosecution files this Request as 'confidential' as it concerns a confidential filing and its content. However, if the Chamber grants this Request, the Prosecution also requests that the Chamber reclassify this filing as 'public'.

Submissions

3. On 20 November 2015, the Prosecution filed its NCTA Response and today files a Public redacted version thereof.
4. In the Public redacted version of the NCTA Response, the Prosecution has redacted any reference made therein to witness testimony that was elicited in private or closed session and which remain redacted in the corresponding Public redacted version, or for which a corresponding Public redacted version has not yet been notified by CMS. The Prosecution has also maintained redactions to any information emanating from documents which are classified as 'confidential', such as prior recorded testimony admitted pursuant to rule 68, unless the information in question was discussed in public session during the witness's testimony. As a result, the NCTA Response filed by the Prosecution today is heavily redacted.
5. Pursuant to regulations 23*bis*(2) and 42(3) of the Regulations of the Court, the Prosecution hereby seeks the authorisation of the Chamber to file a lesser-

¹ ICC-01/09-01/11-2000-Conf.

redacted version of the NCTA Response, lifting redactions to confidential evidence that, in the Prosecution's evaluation, is not identifying.²

Relief Requested

6. The Prosecution seeks the Chamber's permission to file Annex A as a Public lesser-redacted version of its NCTA.



Fatou Bensouda, Prosecutor

Dated this 26th day of November 2015

At The Hague, The Netherlands

² See Annex A where for ease of reference, the Prosecution has identified in yellow the text that it submits should remain redacted in the lesser redacted version of the public NCTA Response, and in grey the text where redactions may be lifted.