

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/09-01/11
Date: 19 January 2016

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
with Public Annex A**

**Submission of material referred to by the Ruto Defence during the Status
Conference on 14 January 2016**

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

Ms. Fatou Bensouda
Mr. James Stewart
Mr. Anton Steynberg

Counsel for William Samoei Ruto

Mr. Karim A. A. Khan QC
Mr. David Hooper QC
Mr. Essa Faal
Dato' Shyamala Alagendra
Ms. Leigh Lawrie

Counsel for Joshua Arap Sang

Mr. Joseph Kipchumba Kigen-Katwa
Ms. Caroline Buisman

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 Massidda

**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

1. During oral submissions on 14 January 2016, the defence for Mr. William Samoei Ruto ("Ruto Defence") referred to an article in the Daily Nation newspaper dated 10 November 2000 titled "Lotodo dies in cancer clinic".¹
2. The Ruto Defence acknowledged that the newspaper article is not in evidence but advised the Chamber that "[t]he Prosecution are willing to accept that the report of Lotodo's death was reported."²
3. As advised during submissions, this newspaper article is relevant to assessing the statement of Witness 3 (*per* the PIS form used by the Ruto Defence during its oral submissions). Witness 3 alleges that Francis Lotodo, a sitting MP from West Pokot, was one of three individuals identified at a meeting held in 2007 who would be willing to provide "*Bidhaa*" (firearms). However, the newspaper article reports that Francis Lotodo died on 8 November 2007.
4. In order that the Chamber has access to all the material referred to during oral submissions, the Ruto Defence files a copy of the relevant newspaper article in the annex hereto.³ This article has been up-loaded to and is available on e-Court.

Respectfully submitted,



Karim A.A. Khan QC
Lead Counsel for Mr. William Samoei Ruto

Dated this 19th Day of January 2016
At The Hague, the Netherlands

¹ ICC-01/09-01/11-T-211-CONF-ENG ET 14-01-2016 ("T-211"), 57:18-58:21.

² T-211, 58:5-6.

³ See KEN-D09-0048-0016 provided in Annex A.