

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **11 February 2013**

Date of submission: **2 February 2017**

TRIAL CHAMBER V

Before: Judge Kuniko Ozaki, Presiding Judge
Judge Christine Van den Wyngaert
Judge Chile Eboe-Osuji

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 "Prosecution withdrawal of witness P- [REDACTED]", 11 February 2016, ICC-01/09-01/11-597-Conf

Source: The 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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Introduction

1. On 1 February 2013 Trial Chamber V ("Chamber") issued its 'Order delaying the deadline for disclosure of the identity of witness P-█ pursuant to the Prosecution's request dated 28 January 2013' ("Order").¹

Confidentiality

2. This filing is submitted on a confidential basis as it contains information of a confidential nature, currently unknown to the public.

Submission

3. In its Order, the Chamber granted the Prosecution until 11 February 2013 to obtain final confirmation of P-█'s consent to testify and for his identity to be disclosed to the Defence. Otherwise the Prosecution was directed to withdraw this witness.
4. Upon contact being established with P-█, the witness indicated to the Prosecution that he no longer wished to continue cooperating with the Court and so did not consent for his identity to be disclosed. Therefore, the Prosecution has no alternative but to withdraw this individual from its Witness List.
5. Nonetheless, should there be some significant change in circumstances, and should the need arise, the Prosecution may apply for the later re-inclusion of this witness on its Witness List.
6. Finally, the Prosecution notes that since it filed its Pre-Trial Brief on 9 January 2013 it has informed the Chamber and the Defence of the withdrawal of a

¹ ICC-01/09-01/11-582-Conf Exp.

number of witnesses other than P-[REDACTED]² The Prosecution is aware that the withdrawal of certain witnesses cited in the Pre-Trial Brief may affect the content of this document and, as such, undertakes to assess the extent of any impact and will raise this with the Chamber in an appropriate filing shortly.



Fatou Bensouda, Prosecutor

Dated this 11th of February 2013
At The Hague, The Netherlands

² Namely, [REDACTED].