



Original: **English**

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

Date: **15 January 2015**

Date of public redacted version: **11 December 2017**

TRIAL CHAMBER V(A)

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

SITUATION IN THE REPUBLIC OF KENYA

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

Public redacted version of

**Order Scheduling a Status Conference Regarding Request for Issuance of a
Summons for Witness 727**

Order 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

**Unrepresented Applicants for
Participation/Reparation**

The Office of Public Counsel for Victims

Ms Paolina Massidda

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

States Representatives

[REDACTED]

Amicus Curiae

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 (the ‘Court’), in the case of *The Prosecutor v William Samoei Ruto and Joshua Arap Sang*, pursuant to Rule 132(2) of the Rules of Procedure and Evidence, renders this ‘Order Scheduling a Status Conference Regarding Request for Issuance of a Summons for Witness 727’.¹

1. On 17 December 2014, the Office of the Prosecutor (the ‘Prosecution’) filed a request to issue a summons for Witness 727 (the ‘Request’).² The Prosecution requests the Chamber to: (i) issue a summons under Article 64(6)(b) of the Statute for Witness 727, [REDACTED], to testify before this Chamber via video-link [REDACTED]; (ii) request the cooperation [REDACTED] under Article 93(1)(b) of the Statute to serve and execute the summons, by compulsive means if necessary and, in order for [REDACTED] to submit informed observations on the Request, to (iii) authorise the notification of all confidential filings and transcripts relevant to this issue to [REDACTED].³
2. The Request followed an extensive discussion of the possibility of Witness 727 being compelled to testify [REDACTED].⁴
3. On 18 December 2014, the defence team for Mr Ruto (the ‘Ruto Defence’) responded to the Request.⁵
4. On 19 December 2014, the defence team for Mr Sang (the ‘Sang Defence’) responded to the Request.⁶
5. On 9 January 2015, the Chamber indicated by email that the Prosecution was authorised to liaise with the Registry for notification of the relevant confidential

¹ [REDACTED].

² [REDACTED].

³ Request, ICC-01/09-01/11-1760-Conf, paras 23-24.

⁴ [REDACTED].

⁵ [REDACTED].

⁶ [REDACTED].

filings and transcripts to [REDACTED].⁷ At this time, the Chamber did not anticipate requiring observations from the [REDACTED] on the Request.⁸

6. On 12 January 2015, the Prosecution, informed the Chamber by email that [REDACTED] had highlighted to it that there were:

[...] [C]ertain potential legal obstacles both to the testimony of the witness by video-link [REDACTED] and to [REDACTED]. Only once the decision is rendered would [REDACTED] be in a position to determine if and how they will be in a position to implement the summons.⁹

7. In light of the information the Prosecution provided from [REDACTED] in this email, the Chamber decides to convene a status conference in order to afford [REDACTED] an opportunity to discuss any such potential legal obstacles.
8. Specifically, the views of the [REDACTED], and the participants as appropriate, are sought as to the legal and/or practical implications of proceeding in one of the following four ways:
- (i) Witness 727 is summonsed to testify before this Chamber at the seat of the Court;
 - (ii) Witness 727 is summonsed to testify before this Chamber by video-link [REDACTED];
 - (iii) Witness 727 is summonsed to testify before this Chamber sitting *in situ* [REDACTED]; or
 - (iv) Witness 727 is compelled to appear and testify before [REDACTED].

⁷ Email from a Legal Officer of the Chamber to the Prosecution, 9 January 2015 at 11:11.

⁸ Email from a Legal Officer of the Chamber to the Prosecution, 9 January 2015 at 11:11.

⁹ Email from the Prosecution to the Chamber and the participants, 12 January 2015 at 19:29.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

CONVENES a confidential status conference on 22 January 2015 at 14:30 to discuss all matters related to the Request, in particular the scenarios set out in paragraph 8 above. The representatives of the [REDACTED] are invited to attend the status conference, which will be held in the presence of the Prosecution, Ruto Defence, Sang Defence and the Legal Representative of Victims.

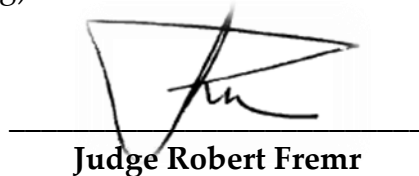
Done in both English and French, the English version being authoritative.



Judge Chile Eboe-Osuji
(Presiding)



Judge Olga Herrera Carbuccion



Judge Robert Fremr

Dated 15 January 2015

At The Hague, The Netherlands