

1 International Criminal Court  
2 Trial Chamber V(a) - Courtroom 1  
3 Situation: Republic of Kenya  
4 In the case of The Prosecutor v. William Samoei Ruto  
5 and Joshua Arap Sang - ICC-01/09-01/11  
6 Presiding Judge Chile Eboe-Osuji, Judge Olga Herrera Carbuccion  
7 and Judge Robert Fremr  
8 Status Conference  
9 Friday, 27 September 2013  
10 (The hearing starts in open session at 10.07 a.m.)  
11 THE COURT USHER: All rise.  
12 The International Criminal Court is now in session.  
13 Please be seated.  
14 PRESIDING JUDGE EBOE-OSUJI: Thank you very much. Welcome, everyone.  
15 Good morning.  
16 Court officer, please call the case.  
17 THE COURT OFFICER: Good morning. Situation in the Republic of Kenya, in the  
18 case of The Prosecutor versus William Samoei Ruto and Joshua Arap Sang, case  
19 reference ICC-01/09-01/11, and for the record, we are in open session.  
20 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.  
21 Appearances.  
22 MR STEYNBERG: Your Honours, the appearances for the Prosecution remain the  
23 same.  
24 MR KHAN: Good morning, Mr President, your Honours. William Ruto is  
25 represented by David Hooper, Queen's Counsel, Essa Faal, Shyamala Alagendra, of

1 counsel. Behind me, Shalini Jayaraj, and at the back, Grace Sullivan, our trial  
2 support. Your Honours, my name is Karim Khan.

3 MR KIGEN-KATWA: Mr President and your Honours. Mr Sang is represented by  
4 myself, Katwa Kigen, Caroline Buisman and Judy Mionki.

5 PRESIDING JUDGE EBOE-OSUJI: Thank you.  
6 Victim's counsel.

7 MR NARANTSETSEG: Good morning, your Honours. Today the Legal  
8 Representative team is represented by myself: I'm Orchlon Narantsetseg, legal  
9 officer at the Office of Public Counsel for Victims. Mr Nderitu is back in Kenya, and  
10 his case manager, Carolin Herzig, is on sick leave today.

11 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.  
12 Today's status conference is scheduled as a follow-up to where we last stood. We  
13 granted -- we suspended, or rather, adjourned the proceedings to enable Mr Ruto  
14 return to Nairobi to attend to the unfortunate events of the Westgate Mall incident.  
15 The adjournment was for one week, subject to a review, in case the Defence needed to  
16 renew the request.

17 This morning the Appeals Chamber published its decision on the Defence request for  
18 reconsideration of the decision on suspensive effect, and the request of the Ruto  
19 Defence for reconsideration was rejected, so it means the suspensive effects decision  
20 stands. The question now is - Mr Khan, we're in your hands - where are we? Is  
21 your client coming back on Monday, as we intended in the original decision?

22 MR KHAN: Your Honours, firstly, we're most grateful for the Court's granting of  
23 the adjournment. As perhaps has been seen on television - it's been widely  
24 reported - a lot has been going on in Kenya and William Ruto, as Deputy President,  
25 has been taking part in these very security meetings and also visiting hospitals.

1 Your Honour, at the outset Mr Ruto will be here whenever the Court require him to  
2 be here, but that must be the starting position. But, your Honour, it is our  
3 application that in the unique circumstances pertaining at the moment and  
4 giving -- given the Appeals Chamber decision rejecting the application to lift  
5 suspensive effect, we do ask that the case be adjourned further.

6 Your Honour, we understand that that causes some inconvenience to the witness  
7 who's on the stand but, your Honour, it can't be ignored, in our respectful submission,  
8 that there are the concerns of 40 million Kenyans that at the moment require their  
9 Head of State and their Deputy Head of State to be working as a unit.

10 Your Honour, I'll make some brief submissions in public and then, with your leave,  
11 perhaps five minutes or eight minutes or thereabouts perhaps in private session  
12 regarding the second aspects that I would raise to the Court's attention.

13 Your Honour, today Kenya is still under red alert. That's the formal classification.

14 As your Honours know from various systems, you have different security threats,  
15 green, amber, and red alert, and I will discuss that more a little bit later. But, your  
16 Honours, today there is a National Security Council meeting which the President and  
17 the Deputy President will take part in, in which the progress report on the forensic  
18 audit and the initial responses from the scenes of crimes officers on the scene will be  
19 presented. Your Honours, there are meetings throughout, and let me just touch  
20 upon some highlights that are important perhaps to the Bench's determination.

21 On Saturday, there is another meeting scheduled in which the forensic reports of  
22 internationals, the British, the Germans, and Israelis, will be presented to a cabinet  
23 subcommittee on security, and the Deputy President forms an intrinsic part of that.

24 Your Honours, on Monday, in the morning, there is a National Security Council  
25 meeting which will receive not only hopefully the final report on the forensic audit,

1 but also recommendations on prevention of terrorist attacks and related activities.

2 And, your Honours, that is a high-level meeting. It will be the President, the Deputy,  
3 the Minister or the Cabinet Secretary for Foreign Affairs, the Cabinet Secretary for  
4 Internal Securities, the Minister of Defence and Finance.

5 Your Honours, on Tuesday, there is a national -- today is the last day of the official  
6 three days of mourning, but on Tuesday there is an interdenominational prayer  
7 service where members of the Christian denominations, Hindu, Muslim, and all other  
8 religions that are represented in Kenya, or major religions, will be conducted at the  
9 KICC in Nairobi. Your Honours, this is a major event in which the various strands  
10 that make up the mosaic of Kenyan society will be coming together to join in prayer  
11 for the victims and for healing, and that's an important event, we say. The Deputy  
12 President will speak at that event if the Court grant the adjournment. But it is an  
13 important event, given that -- particularly because of the tragedy, and even more so  
14 when an ugly feature of terrorism today is so many terrible and ugly acts are  
15 committed in the name of a religion, and in these circumstances it's very important to  
16 draw a clear line between the acts of fanatics and a teaching that many millions of  
17 people believe in. Your Honours, that's on Tuesday.

18 PRESIDING JUDGE EBOE-OSUJI: What time?

19 MR KHAN: Your Honour, in the morning. In the morning.

20 Your Honour, on Wednesday, the Deputy President is due to chair a combined  
21 committee of the Senate, the National Assembly and the Executive, which includes  
22 also the Attorney-General, and this is geared on putting forward concrete proposals  
23 on the legislative agenda to put enactments into law that will deal with particular  
24 threats of terrorism that Kenya has to face and to agree on a legislative and regulatory  
25 mechanisms of prevention.

1 Your Honour, on Thursday and Friday, I won't say more, but there's also scheduled  
2 consultations directly between the President and the Deputy President on issues  
3 relating to the terrorist attack and perhaps - from what I'm told - it's also going to be  
4 linked into the executive response to some of these activities.

5 Your Honour, those are the matters that are the diary issues or the issues of State, if I  
6 can put it that way, that the Deputy President would wish to attend if the Court  
7 excuses attendance.

8 Your Honour, there are other matters perhaps with the Court's leave I would wish to  
9 raise in private session.

10 PRESIDING JUDGE EBOE-OSUJI: Before we do that, you were effectively  
11 requesting further adjournment --

12 MR KHAN: Yes.

13 PRESIDING JUDGE EBOE-OSUJI: -- to when?

14 MR KHAN: Your Honour, as I understand it -- and at all stages it's subject to the  
15 Court's pleasure. Whatever the Court say will be complied with, so there should be  
16 no misapprehension about that. But as things stand, the Court was due, in any event,  
17 to rise on Friday and to come back, I believe it's the following -- a week later, the 14th.  
18 So, your Honour, what we'd ask is to come back on the 14th. Hopefully, those  
19 matters will -- or major issues at least dealing with this attack will be clearer and more  
20 settled then.

21 Your Honours, in any event, and perhaps I can raise that in public, there has been a  
22 decision of the Chamber which the Defence have a right to certain disclosure. We  
23 haven't received that yet, and before we proceed with the witness that's on the stand,  
24 the Defence would need, in our respectful submission, to have access to that  
25 disclosure in order to properly confront the witness. So, your Honour, in any event

1 some delay may have been necessary in order for the Defence to properly challenge  
2 the witness on the stand. Your Honour, I'll say no more than that. I think  
3 everybody knows the decision I'm referring to.

4 So, your Honour, the application would be to adjourn and we'd reconvene, with the  
5 Court's leave, on 14 October. I'm grateful. And then, your Honour, unless there's  
6 questions, perhaps a few comments I can raise in private session.

7 PRESIDING JUDGE EBOE-OSUJI: We can rest it there for now.

8 MR KHAN: I'm grateful.

9 PRESIDING JUDGE EBOE-OSUJI: Later on, we'll see what we do in private session.

10 MR KHAN: I'm most grateful.

11 PRESIDING JUDGE EBOE-OSUJI: Prosecution?

12 MR STEYNBERG: Thank you, your Honour. The Prosecution opposes further  
13 adjournment. I've heard much from my learned friend about obligations of the  
14 accused Mr Ruto next week. What I haven't heard anything about is any steps that  
15 he might have taken to enable other people, other competent people - other  
16 competent officials - to deal with the crisis on his behalf. It seems, from what my  
17 learned friend has said, is he simply carried on as if it's business as usual and that in  
18 the expectation that the Court case will simply wait for him.

19 Now, one obviously -- one's heart goes out to the victims and to the Kenyan people  
20 who, no doubt, will take some time to recover from this tragedy. But when I listened  
21 to the litany of high-level meetings that are planned for this week and next week, I'm  
22 sure my learned friend could have continued with the week after that and the week  
23 after that and the week after that because attending high-level meetings is what  
24 deputy president and cabinet ministers do. Without in any way derogating from the  
25 seriousness of what happened in Kenya last week or the necessity to take urgent and

1 proper steps to ensure that this sort of tragedy does not recur again, my submission is  
2 that nothing that I've heard indicates that Mr Ruto's presence in Kenya is essential for  
3 that purpose.

4 My learned friend, quite correctly, points to the inconvenience that a further  
5 adjournment will necessitate to the witness, but unfortunately it goes a little bit  
6 beyond mere inconvenience. Your Honours have been apprised as to the status of  
7 the current witness. I won't go into any more details in public session, save to say  
8 that in the assessment of the VWU, the longer the adjournment, the greater the  
9 psychological harm might be caused to this witness. And unfortunately, it doesn't  
10 just stop at this witness. There are other witnesses who have been lined up, who  
11 will also be inconvenienced and subjected to the same sort of stress.

12 Now, in the submission of the Prosecution -- well, let me just then point out my  
13 learned friend, in response to a question by your Honour, Mr President, as to  
14 when -- to when he asked for the adjournment for, I note that he says on the 14th and  
15 "hopefully" on the 14th those matters will be resumed. So even then, after some two  
16 weeks, there's no guarantee that we won't then find ourselves with another  
17 emergency or another high-level meeting that the accused wishes to attend.

18 In the Prosecution's submission, your Honours, we made the concession last week  
19 that an adjournment was necessary due to the extraordinary and exceptional crisis  
20 that had arisen in Kenya. In the Prosecution's submission, that immediate crisis has  
21 now been resolved. This is not to say that the aftermath won't take some time to  
22 clean up, but in these circumstances, your Honours, our submission is that the  
23 accused's presence and his commitment to this case must take precedence at this  
24 stage.

25 Regarding the second issue, that's perhaps something that I can also then respond to

1 in private session.

2 MR KHAN: Your Honour, with your leave, just a couple of clarifications. Perhaps  
3 I wasn't as definite as I perhaps could have been regarding the 14th. Of course, even  
4 tomorrow is uncertain in life, but, your Honours, the 14th we would anticipate there  
5 will not be any bar at all to starting then. Your Honour, even if you decide on  
6 Monday, the -- Mr Ruto will be here then. But, your Honour, it's not fair to  
7 characterise the Defence submission in the way that the Prosecution has, that  
8 somehow it's inconvenient. Your Honour, the -- and this is where one does really  
9 request and require and have an entitlement to really very objective submissions from  
10 the Prosecution.

11 Your Honour, I handed up a document yesterday -- sorry, on Monday, in which the  
12 President of the Republic of Kenya did not attend the high-level meeting at the  
13 General Assembly that everybody has seen on their televisions. We did not request  
14 an adjournment of proceedings so that the Deputy President could go back to Kenya  
15 and allow the President to go to New York. We didn't seek that. We -- instead, the  
16 Presidency, the President and the Deputy President, did not interrupt or even seek to  
17 interrupt the proceedings before the ICC and before your Honours.

18 Now, your Honour, that cannot be glossed over or should not be fairly glossed over  
19 by the Prosecution in accurately representing the position of Mr Ruto or of the  
20 Defence.

21 Your Honour, the other aspect, and it's all in the public domain - we've seen the CNN  
22 and the high-level meetings in New York anyway for the last 48 hours - but, your  
23 Honour, the other matter is the President of Kenya did not attend the special meeting  
24 on Somalia which would have encompassed including the terrorist issues in Brussels  
25 and that was because, again, the Deputy President was here in The Hague.

1 Your Honours, we did not seek an adjournment to allow the Deputy President to go  
2 back to Kenya in order for the President to travel outside the country. So, your  
3 Honours, already we've got two obvious and major examples where Mr Ruto has put  
4 the Court's -- his personal responsibility before the Court first, and it's not a matter of  
5 inconvenience because that inconvenience was already there, and despite that  
6 inconvenience, the Court was respected and the primacy of the Court, of the personal  
7 responsibilities, was given full effect to. But, your Honour, there are these major  
8 incident that's underway in Kenya, and what the Prosecution -- they go on a lot on  
9 many different fora about the need of the victims. Of course, there's one individual  
10 that's on the witness-stand. But, your Honour, we've seen massive attacks,  
11 unfortunately, scar the world over the last few decades and what's known is that,  
12 even in the aftermath, people even that have seen it on television sometimes are  
13 traumatised and are fearful, and the reality is not only are there funerals to attend to  
14 and people at that time in any country, whether it's Kenya or South Africa, they  
15 receive comfort by their leadership standing united as a symbol of unity.  
16 Your Honour, in addition to those funerals and those type of matters, there is that  
17 reassurance that the leadership is there and that presence provides a succour, support,  
18 and confidence to the people that may be exceptionally needed at a time like this.  
19 But your Honour, this is not a case simply of inconvenience and because of the  
20 inconvenience that's caused we're seeking to make the application for a five-day  
21 adjournment effectively, a further five-day adjournment. Your Honour, it's much  
22 more profound than that and I think the Defence are not abusing the Court's time in  
23 making the application that we have.  
24 Your Honour, that's all I have to say in relation to the public aspect, unless there's  
25 questions from the Bench at this time.

1 PRESIDING JUDGE EBOE-OSUJI: I will hear from Mr Kigen-Katwa.

2 MR KIGEN-KATWA: Mr President and your Honours, we do not oppose Mr Ruto's  
3 application for accommodation up to approximately 14 October.

4 We would also wish to say that the psychological condition of the witness referred to  
5 by the Prosecution I think, on scales, would weigh on preference that this  
6 accommodation be given to assist the Kenyans who are victims of this terrorism and  
7 the prejudice to the victim would not be reparable. That's all I wish to say, Mr  
8 President and your Honours.

9 MR NARANTSETSEG: Mr President, your Honours. Mr Nderitu, Common Legal  
10 Representative for Victims, is back in Kenya. He's observing the situation on the  
11 ground as it evolves.

12 The Common Legal Representatives wish to make the following observations.

13 Firstly, we would like to bring some facts on the current situation in Kenya to the  
14 attention of the Chamber. Secondly, based on these facts, we would like to make a  
15 few recommendations.

16 Lastly we would like to make two requests related to the conduct of the proceedings.  
17 Your Honours, I am going to move to the first point, situation in Kenya. We would  
18 like to bring the following facts to the attention of the Chamber, which might be of  
19 assistance in the Chamber's resolution of the matter at hand.

20 Firstly, according to the reports on the terror attack, we take our sources basically  
21 from the media outlets in Kenya, Daily Nation, for example. These reports state that  
22 currently 67 people are confirmed dead and 240 injured. It's said that many other  
23 victims were -- it's said that many victims were savagely tortured before being killed.  
24 According to the same sources, 61 persons are still missing. These are people whose  
25 relatives knew to have been at the mall at the time of the attack, but exact number of

1 those whose bodies might still be at the mall is unknown to this day.

2 Thirdly, three floors of the Westgate Mall, which is a substantial portion of the

3 shopping centre, has collapsed, so it's suspected that a lot of people are buried under

4 the rubble and died as the floors fell or were suffocated as a result of the fire that

5 gutted the mall. Many vehicles were burned in the fire. It's also suspected that

6 there were many victims who were burnt as they sought refuge in those vehicles.

7 There has been no official word about the missing, despite the mounting pressure

8 from the relatives and general public and media in Kenya.

9 Mr Kenyatta, the President of the country, announced on the radio and the television

10 Tuesday night that, as the Defence for Mr Ruto has already said, the siege at the mall

11 had come to an end, and declared three days of mourning on Tuesday evening,

12 commencing Wednesday, and this mourning period will end this evening.

13 There have been two more terror attacks this week, one in Wajir on Wednesday night;

14 the other in Mandera on Thursday morning. Both of these towns are located in

15 north of Kenya. And these attacks have been linked to Al-Shabab, the group that has

16 also claimed responsibility for the Westgate Mall attack.

17 There has been major reshuffle on the top security leadership following the attacks.

18 And lastly, we would like to stress that the situation has totally devastated the entire

19 Kenyan population and especially the Nairobi residents.

20 Your Honours, I'm going to move to the second point of our submission. So what

21 we recommend is the following: While the legal process must continue, the way

22 these calamities of such magnitude has been imposed on Kenya compels a finite

23 suspension of any other major events until the dead have been buried, as a way of

24 expressing sympathy with those families who have lost their loved ones and also a

25 genuine gesture of respect for the deceased. Kenyans expect that there will be an

1 interdenominational prayer for the deceased and for those injured sometime soon.

2 As Mr Khan mentioned already, we also believe that it will take some time next week,  
3 early next week. At such prayer meetings, President and his Deputy would typically  
4 play significantly roles. Therefore, we victims do not take any position whether or  
5 not the Chamber should grant or extend the adjournment of this trial, as requested by  
6 the Defence for Mr Ruto. We leave it to the wide discretion of the Honourable  
7 Judges, your Honours.

8 At the same time, we stress that any extension is to be granted -- if any extension  
9 should be granted, it must be balanced with Court's duty to ensure protection and  
10 well-being of the witnesses and victims under Article 68 of the Statute. At any rate,  
11 such adjournment shouldn't exceed more than a week; otherwise, in other words, any  
12 longer extension wouldn't be in line with the Court's duty to ensure protection of the  
13 physical and psychological well-being of witnesses and victims.

14 That said, we also stress that the accused are entitled to a fair and expeditious trial.

15 We victims also have a legitimate expectation to a process that's fair and expeditious.

16 This being a joint trial, we believe that care must be taken in order to ensure balance,  
17 the demands made by Ruto Defence and the Court's duty to ensure the whole process  
18 fair and expeditious; also for the other accused, Mr Sang. And lastly, all these  
19 competing interests should also be respect for the interest of the participating victims.

20 With your Honour's leave, I'll move on to our last point, our request.

21 Based on these developments, we would like to make two requests. Our first

22 request is -- relates to the scheduling of the hearings. We note that first session of  
23 this trial was scheduled to end this coming Friday, 4 October 2013, so we believe that  
24 if an extension of an adjournment is granted, unless Chamber does the scheduling  
25 fresh anew, it would mean that the adjournment would be effectively until 14 October,

1 when the second session was supposed to commence. We believe that this is highly  
2 undesirable as it would mean in reality that the adjournment would last for three  
3 weeks, from 23 September to 14 October. In any event of extension, therefore we  
4 wish to ask the Chamber to set a fresh schedule according to which the trial should  
5 resume on 7 October for a period of at least three or preferably four weeks in order to  
6 compensate for the time we have lost so far. This is our first request, your Honours.

7 (Redacted)

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12 (Redacted). This concludes our submissions, your Honour. Unless  
13 you have further questions, I would then hear. Thank you.

14 PRESIDING JUDGE EBOE-OSUJI: Yes, I do. I do not understand the point of this  
15 submission. Are you opposing the request for further extension, or are you not? It  
16 helps if counsel assist the Bench in coming to a decision. The Prosecution was  
17 straightforward in its position. The Defence was straightforward in their position.  
18 I didn't get where you stand as the Victims' counsel.

19 MR NARANTSETSEG: I apologise if my submission was --

20 PRESIDING JUDGE EBOE-OSUJI: It may not be you. I don't -- when I say "you," I  
21 don't mean you personally. It may well be that you are delivering the message from  
22 Mr Nderitu, and in that case it will not be -- I assume that's the case, and it will not be  
23 fair to you to press you, but next time it helps if there's some clarity because it doesn't  
24 help us to say the right thing for victims, also the right thing for justice, and then it's  
25 up to the Chamber to make a decision. It's wise to -- we can balance those

1 competing considerations and still say, "This is where we stand on the thing." I take  
2 it that that wasn't done in this case. I'm just pointing that out. So unless you can  
3 provide more clarity on where you stand, that may be it.

4 MR NARANTSETSEG: Only clarity we can provide is that Mr Nderitu and his team  
5 in Kenya -- we find ourselves in a very delicate situation, your Honours. Mr Nderitu,  
6 the Common Legal Representative, himself being Kenyan, and the victims being  
7 Kenyan, we therefore -- we therefore are not able to either directly oppose or support  
8 the request made by Mr Ruto's Defence team. Therefore, we would leave it to your  
9 discretion and we would rest there. Thank you.

10 PRESIDING JUDGE EBOE-OSUJI: Thank you. Next time in those delicate  
11 positions, it might be better to not take a position. The reason I say it is so that we  
12 have some clarity on the record.

13 MR NARANTSETSEG: I understand.

14 PRESIDING JUDGE EBOE-OSUJI: Thank you.

15 MR KHAN: Your Honour, can I just say that's a worrying statement from the Legal  
16 Representative for the Victims? I know they've tried, and particularly the first part  
17 was commendable, their acknowledging of the needs of the people of Kenya, but,  
18 your Honour, all counsel in this courtroom, whether for the Prosecution, the Defence,  
19 or the Legal Representative of the Victims, must be courageous in their positions and  
20 not balk at saying whatever they believe in their professional opinion is the right  
21 thing to present before the Court. And your Honour, any extraneous pressures or  
22 considerations should be -- counsel should be impervious to that. Nothing should  
23 be a barrier between counsel and counsel's ability to present submissions in fulfilment  
24 of their professional responsibilities to the Bench.

25 Your Honour, the second point, with your leave, and I think it should be noted into

1 the record, the Defence have no interest in delaying these proceedings. We've  
2 waited a long time for this trial to clear the slurs that have been raised against  
3 William Ruto. And, your Honour, we tried our best to navigate a way forward, and  
4 even on Monday, when we filed our application to lift suspensive effect, the  
5 Prosecution very vigorously opposed that possibility.  
6 Your Honours, of course the Appeals Chamber have determined it and they  
7 determined it in part based upon the Prosecution objections, but, your Honour, what  
8 we had hoped is that the witness could continue and we would continue in the  
9 absence of Mr Ruto and your Honours would have the full benefit of hearing the  
10 testimony and assessing it. But, your Honours, that possibility, that room, was  
11 denied us by the very vigorous and violent objections put forward by the Prosecution.  
12 So, your Honour, the record should show the Defence had no interest in delaying the  
13 matters. We wanted to continue with the testimony of the witness, but the  
14 Prosecution boxed themselves in a corner of their own making that prevented that  
15 being a possibility.

16 PRESIDING JUDGE EBOE-OSUJI: The point you make is that you have no interest  
17 in delaying proceedings. That's what you're saying?

18 MR KHAN: I'm grateful.

19 PRESIDING JUDGE EBOE-OSUJI: Okay, we'll leave it at that.

20 Perhaps this would be a good time to go into the private session for what  
21 else -- before we do that, VWU?

22 MS SCHAUDER: Yes.

23 PRESIDING JUDGE EBOE-OSUJI: Do you have interventions to make in the public  
24 session or would you rather come in in the private session?

25 MS SCHAUDER: (Interpretation) Mr President, we can wait for the private session.

1 Thank you.

2 PRESIDING JUDGE EBOE-OSUJI: Thank you. We can now go into the private  
3 session, court officer.

4 (Private session at 10.43 a.m.)

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Status Conference

(Private Session)

ICC-01/09-01/11

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13 Page 17 redacted – Private session

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Page 17

Status Conference

(Private Session)

ICC-01/09-01/11

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13 Page 18 redacted – Private session

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Page 18

Status Conference

(Private Session)

ICC-01/09-01/11

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13 Page 19 redacted – Private session

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Page 19

Status Conference

(Private Session)

ICC-01/09-01/11

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Page 20

Status Conference

(Private Session)

ICC-01/09-01/11

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13 Page 21 redacted – Private session

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27.09.2013

Page 21

Status Conference

(Private Session)

ICC-01/09-01/11

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13 Page 22 redacted – Private session

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Page 22

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- 20 (Recess taken at 11.01 a.m.)
- 21 (Upon resuming in open session 11.40 a.m.)
- 22 THE COURT USHER: All rise. Please be seated.
- 23 THE COURT OFFICER: Your Honour, we are in open session.
- 24 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.
- 25 Mr Khan, the interdenominational service is on Tuesday, 1 October, you informed the

1 Court, in the morning?

2 MR KHAN: Your Honour, on Tuesday at the KICC, and it's the national prayer  
3 interdenominational service, at the KICC.

4 PRESIDING JUDGE EBOE-OSUJI: The 1st of October, Tuesday?

5 MR KHAN: Yes, indeed.

6 PRESIDING JUDGE EBOE-OSUJI: Thank you.

7 Here is the Chamber's ruling on the request for further adjournment.

8 The Chamber will partially grant the request. The adjournment is to extend up to  
9 Tuesday, 1 October 2013, and the sitting in this case will resume the next day,  
10 Wednesday, 2 October, and the witness on the stand is to continue testimony at that  
11 time with Mr Ruto present. The adjournment is to permit Mr Ruto to attend the  
12 interdenominational service scheduled to take place on Tuesday, 1 October. The  
13 Chamber believes that that service is an important event aimed at national  
14 reconciliation and healing, given what had occurred. We note that recognition of  
15 such events is consistent with the motivations of even the Rome Statute. In that  
16 regard one need look at the first paragraph, the very first paragraph, of the preamble  
17 of the Statute that recognises that "... all peoples are united by common bonds, their  
18 cultures pieced together in a shared heritage, and concerned that this delicate mosaic  
19 may be shattered at any time."

20 In the circumstances the Chamber cancels the one-week adjournment currently  
21 scheduled to take place from 7 to 11 October. Proceedings will continue. The  
22 decision of the Chamber takes into account the report of the VWU.

23 That effectively ends the Chamber's ruling on the request. I only need to make one  
24 announcement so that parties are informed. On Wednesday, 9 October, this  
25 Chamber will not sit because of proceedings in other cases that need to use the

1 courtroom.

2 That is the end of the ruling and the announcement.

3 Mr Kigen-Katwa.

4 MR KIGEN-KATWA: Mr President and your Honours, for -- just to assist us in  
5 planning, I was very kindly requesting if it is possible that the Chamber could give us  
6 an indication as to whether we would close the session as originally scheduled, this  
7 session, whether we would close it as originally scheduled or it would be extended in  
8 view of the adjournment. That's one.

9 The second one is, Mr President and your Honours, is the second session was to  
10 commence on 14 October and close about 2 -- 1 November, and I was wondering  
11 whether the Chamber has any indication of whether -- when we would next  
12 reconvene. I'm just inquiring just so that we can -- for purposes of planning and just  
13 in case the Chamber has a certain position on that issue. Thank you, Mr President  
14 and your Honours.

15 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.

16 Mr Kigen-Katwa, the Chamber will refer to parties on that matter. We will  
17 communicate to you in the regular manner of communication to parties.

18 MR KIGEN-KATWA: I'm obliged, Mr President and your Honours. Thank you.

19 PRESIDING JUDGE EBOE-OSUJI: That will end it for today's proceedings. The  
20 Court will now adjourn.

21 (The hearing ends in open session at 11.46 a.m.)