

Trial Hearing

(Open Session)

ICC-01/09-01/11

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-Carbuccia
7 and Judge Robert Fremr
8 Trial Hearing
9 Monday, 12 January 2015
10 (The hearing starts in open session at 9.39 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.
15 Court officer, please call the case.
16 THE COURT OFFICER: (Interpretation) Situation in the Republic of Kenya, the
17 case of The Prosecutor versus Mr Ruto and Mr Sang, ICC-01/09-01/11.
18 We are in open session, your Honour.
19 PRESIDING JUDGE EBOE-OSUJI: Thank you.
20 Appearances, please.
21 MR STEYNBERG: Good morning, Mr President, your Honours. For the
22 Prosecution, Anton Steynberg, Alice Zago, Lucio Garcia, Melissa Simms, Lara Renton
23 and Jasmina Suljanovic. Thank you.
24 MR NARANTSETSEG: Good morning, Mr President, your Honours. On behalf of
25 the victims, Amanda Wilmot, James Mawira and myself, Orchlon Narantsetseg.

1 MR KIGEN-KATWA: Good morning, your Honours, and happy New Year. For
2 Mr Sang is Philemon Koech; myself, Katwa Kigen; Logan Hambrick; and Mr Sang is
3 present in court. Thank you, your Honours. Sorry, your Honour, and mister -- and
4 Ms Caroline Buisman.

5 MR HOOPER: On behalf of Mr Ruto, Shalini Jayaraj, Leigh Lawrie, Farah Al-Obaidy
6 and myself, David Hooper. Mr Khan and Ms Shyamala Alagendra will be with us
7 I think later in the week.

8 Your Honours will of course know that Mr Ruto isn't here today, the Court having
9 excused him on condition that he be here for the commencement of the next witness's
10 testimony, and that will, of course, take place.

11 In the meantime, on behalf of this Defence, might I wish your Honours a very happy
12 New Year and our colleagues and those who assist us both on the lower and upper
13 deck. Thank you very much.

14 PRESIDING JUDGE EBOE-OSUJI: Thank you, Mr Hooper. Indeed, we were going
15 to note for the record that Mr Ruto has been excused for the commencement of this
16 session and that he will be present for the first five days of the testimony of the next
17 witness commencing after this. And, indeed, also it is appropriate to wish everyone
18 a happy New Year.

19 Mr (Redacted) we note your presence. We will get back to you in due course. There's a
20 reason why we will not take full appearance from you at this time. We will do that
21 in a moment.

22 We will go into private session.

23 *(Private session at 9.43 a.m.) Reclassified as Open session

24 THE COURT OFFICER: (Interpretation) We are in private session, Mr President.

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

1 Counsel at the other end, your name is (Redacted)

2 MR (Redacted) (Via video link) That is so, your Honour.

3 PRESIDING JUDGE EBOE-OSUJI: Thank you very much. We've been advised that
4 you have been appointed as duty counsel for this witness, Witness 789. We
5 understand you've had an opportunity to review the witness's statements over the
6 past days; is that correct?

7 MR (Redacted): (Via video link) That's not entirely correct. I have had an opportunity of
8 reviewing one of his statements. Some of his later statements, after he made the original one,
9 which I did review, were withheld from me, but I had an opportunity to go through his
10 original statements and then discuss the subject matter with him insofar as it had legal
11 implications for him.

12 PRESIDING JUDGE EBOE-OSUJI: Mr Steynberg, can you speak to the matter of
13 withholding of the rest of the witness's statements?

14 MR STEYNBERG: Your Honours, I'll hand over to my colleague, Ms Zago, who will
15 be leading this witness, but as far as I'm informed, all of the witness's statements were
16 provided to the VWU for provision to the duty counsel. I'm certainly not aware of
17 any instructions to withhold any statements from counsel.

18 PRESIDING JUDGE EBOE-OSUJI: Ms Zago, do you have anything to add to that?

19 MS ZAGO: Not, your Honours. And good morning to you.

20 PRESIDING JUDGE EBOE-OSUJI: Thank you.

21 How many statements now are we talking about that remain to be given to Mr (Redacted)
22 if what has occurred is provision of only the original statement?

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 PRESIDING JUDGE EBOE-OSUJI: All right. Is there any representative from the VWU
9 who can explain why the rest of the statements were not given to Mr (Redacted) ?

10 Subject to what the VWU will say, since there is no representative of the VWU in

11 court, the Chamber provisionally directs that all those statements be given to

12 Mr (Redacted) I say provisionally because I said subject to what the VWU will say. So

13 when they come here and indicate a legitimate reason, we hear why they did not

14 disclose the rest, then we will see whether it is necessary to revise that provisional

15 ruling, but in the meantime the provisional ruling is that all the statements must be

16 given to Mr (Redacted)

17 And, Mr (Redacted) on that note, we will observe that your role is limited solely to the

18 question of the possibility of self-incrimination as regards this witness and to advising

19 him in respect of the applicable provisions in that regard. It is not your role to

20 otherwise direct or guide the testimony of the witness in any manner, or to generally

21 intervene on matters unrelated to the issue of self-incrimination.

22 For the limited purpose of such representation, you will be permitted to be present

23 while the witness testifies and you may, with the leave of the Chamber, make

24 representations on behalf of the witness in relation to the matter of self-incrimination

25 pursuant to Rule 74 of the Court rules. Do you understand?

1 MR (Redacted): (Via video link) I understand fully, your Honour.

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

3 Now, the Prosecutor -- of course the matter of the appointment of Mr (Redacted) has
4 already been anticipated or overtaken your hard position on whether or not there is
5 Rule 74 matter because last time we spoke on this thing you indicated the possibility
6 but not in a very hard manner, but now we've gone beyond that.

7 All right. My advice to Mr (Redacted) now, again, is so that he's pointed to what
8 his role will be in the case, again, subject to the Chamber's ruling. There will be a
9 fuller ruling on that matter.

10 MS ZAGO: As the Court pleases.

11 PRESIDING JUDGE EBOE-OSUJI: Thank you.

12 MR KIGEN-KATWA: Mr President --

13 MR (Redacted): (Via video link) Your Honour, may I raise an issue?

14 PRESIDING JUDGE EBOE-OSUJI: Certainly.

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing

(Private Session)

ICC-01/09-01/11

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted.

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/09-01/11

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/09-01/11

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 PRESIDING JUDGE EBOE-OSUJI: All right.

18 VWU, you are present now?

19 MS SCHAUDER: (Interpretation) Good morning, your Honours.

20 PRESIDING JUDGE EBOE-OSUJI: Thank you, Ms Schauder. We wanted to -- we

21 have made a ruling provisionally pending what you say to us that may require a

22 revision of that ruling and the ruling is that all the witness statements or all the

23 material provided to the VWU by the Prosecution for purposes of transmission to

24 Mr (Redacted), duty counsel, must be given to Mr (Redacted) to prepare him to act in

25 his position as duty counsel for this witness. It should have been done, but we

1 presume that it wasn't because of a legitimate reason. Now, we need not dwell on it
2 should have been done but wasn't done. For now we say is there any reason why all
3 those documents should not be given to Mr (Redacted)? As we understand that only
4 one witness statement, the witness's original statement, is the only document that was
5 given to Mr (Redacted) , the question is, is there a reason why the rest should not
6 be -- should not be given to Mr (Redacted)?

7 MS SCHAUDER: Your Honour, I just rushed into the courtroom. But before doing
8 so, I checked with the people who are at the location of the video link, and the
9 information I received is that all the document that were provided by the Prosecution
10 have been communicated to the -- to Mr (Redacted). So, of course, I mean, it was
11 short notice, so I will have to get out again and check, but so far the information I
12 received is that all the document that were provided by the Prosecution were given
13 on a CD to Mr (Redacted).

14 PRESIDING JUDGE EBOE-OSUJI: All right.

15 Mr (Redacted), did you receive a CD? We don't want to conduct investigation now,
16 inquiry into whether or not who is right or wrong. But did you receive a CD?

17 MR (Redacted): (Via video link) No, shortly, I did not, your Honour. What I
18 received -- in fact, I received nothing at all. I was given an opportunity to view a
19 40-page signed statement, which I was allowed to view on a laptop in a room in the
20 court in (Redacted)

21 PRESIDING JUDGE EBOE-OSUJI: All right. Let's --

22 MR (Redacted): (Via video link) And that's the limit of what I was made available.

23 PRESIDING JUDGE EBOE-OSUJI: Let's leave it at that for now.

24 Ms Schauder, can you ensure now that every document communicated to or given to
25 the VWU by the Prosecution is given to the counsel, Mr (Redacted). We understand

1 that in addition to the witness's original statement there are six other material of that
2 nature, at least six of them. They are to be given to Mr (Redacted) immediately, all right?

3 MS SCHAUDER: With your permission, your Honour, I would now leave the
4 courtroom and make sure that everything is done.

5 PRESIDING JUDGE EBOE-OSUJI: Indeed, that is the direction of the Chamber.
6 Thank you. Please, proceed.

7 We will move on.

8 Mr (Redacted), when the documents get to you, you can -- you should tell us how long it
9 will take you to review them in order to be in a position to discharge your duties to
10 this witness. As soon as the documents are given to you and you've taken a look at
11 them, advise us of that at the first opportunity. Do you understand?

12 MR (Redacted): (Via video link) I understand, your Honour.

13 PRESIDING JUDGE EBOE-OSUJI: All right. In the meantime we will go on to the
14 other business of the protected measure, I believe, submissions on witness's protective
15 measures.

16 Ms Zago.

17 MR KIGEN-KATWA: Mr President, we are in open session.

18 PRESIDING JUDGE EBOE-OSUJI: No, we are in private session.

19 MR KIGEN-KATWA: Sorry, sorry.

20 MS ZAGO: Thank you, Mr President. And good morning, your Honours, again.

21 The Prosecution with respect to the application for in-court protected measures for
22 this witness mostly rely upon its previous written submissions, which are contained
23 in applications number 1650 and 1766, whereby the Prosecution requested that the
24 witness be allowed to testify entirely in camera or, alternatively, that the usual suite of
25 protective measures be granted to the witness.

1 The section relating to this witness in particular in application 1766 is contained in
2 paragraphs 49 to 69. (Redacted)
3 (Redacted)
4 (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted)
19 (Redacted)
20 (Redacted)
21 (Redacted)
22 (Redacted)
23 (Redacted)
24 (Redacted)
25 (Redacted)

Trial Hearing

(Private Session)

ICC-01/09-01/11

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 If there are no additional questions from your Honours, this would conclude the
- 13 submissions by the Prosecution on the matter. Thank you.
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 PRESIDING JUDGE EBOE-OSUJI: Thank you.
- 24 Submissions from the Defence?
- 25 MR KIGEN-KATWA: On behalf of Mr Sang's defence, your Honours, we concede

1 that the nature of the testimony of this witness is likely to identify him and we do not
2 oppose this application in this exceptional circumstance.

3 Your Honour, we make this concession in view of the nature of his testimony, and we
4 also concede that (Redacted) then the testimony in closed
5 session might be preferable.

6 May I clarify that we do not concede nor make an admission in respect to the
7 arguments made by the Prosecution as to (Redacted)
8 (Redacted) All said and done, your Honours, we do
9 not oppose the application.

10 PRESIDING JUDGE EBOE-OSUJI: Thank you.

11 Mr Hooper?

12 MR HOOPER: In our submission, what was just described by Ms Zago as the usual
13 suite of protective measures should be sufficient to protect the prejudice and the
14 interests that have been -- the concerns that have been raised. To have the entire
15 evidence of this witness in closed session would be wholly exceptional and in our
16 submission excessive.

17 We recognize that because of (Redacted) much of his evidence will
18 necessarily have to be in closed session as it is and will be self-identifying by its
19 nature. But for all his evidence to be in closed session is a step, we submit, that goes
20 too far. There may be some items of his evidence that can be dealt with in open
21 session, albeit with the usual suite of protective measures. I'm not in a position at
22 this moment to identify those. And I concede that I see your Honour's point there
23 maybe difficulties in terms of management as a whole where one has a position such
24 as this witness may be in.

25 But nevertheless, dealing with the subjects of his evidence item by item with proper

1 management by those questioning him, there should be and may be some capacity for
2 some of this evidence to be in open session as it properly should be. Thank you.

3 PRESIDING JUDGE EBOE-OSUJI: Yes.

4 MR NARANTSETSEG: Thank you, Mr President, your Honours. On behalf of the
5 victims, your Honours, we support the Prosecution's application. We would like to
6 put emphasis on the protection analysis conducted by the VWU. (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted) Therefore, in our respectful submission, nothing short of

12 complete closed session will suffice to ensure the security and well-being of this
13 witness.

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 Therefore, in our respectful submission we would like to conclude that the complete
21 closed session is required, and this is one of the exceptional circumstances,
22 your Honours, and we would support on behalf of the victims in camera sessions
23 completely, your Honours. Thank you.

24 PRESIDING JUDGE EBOE-OSUJI: Since you're the last person who spoke after Mr
25 Hooper -- to speak after Mr Hooper, I ask you the question: If the witness is going to

1 testify about who was the president of Kenya in 1960, does he need to do that entirely
2 in closed session, questions like that?

3 MR NARANTSETSEG: Your Honours, I see your point. There could be some
4 questions and answers that -- that, you know, one would think that some -- a matter
5 of a public knowledge, your Honour, but besides that, your Honour, only because he

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 That's our submission, your Honour. Thank you.

12 PRESIDING JUDGE EBOE-OSUJI: But he's appearing under a code.

13 MR NARANTSETSEG: Your Honours, we are completely aware of that fact, but
14 your Honours, we believe that (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing

(Private Session)

ICC-01/09-01/11

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Thank you.

5 PRESIDING JUDGE EBOE-OSUJI: Ms Zago, you've heard my questions to the
6 victims' counsel and that goes to you. It has become a pattern in your examination
7 of witnesses - when I say "you," I mean the Prosecution - to ask background questions
8 to a witness, questions that anybody, well, most people in Kenya, would be in a
9 position to answer one way or the other. Why should this witness have to testify in
10 private session with that type of testimony, or are you telling us that all the questions
11 you will ask the witness will be purely limited to the unique circumstances of
12 (Redacted)

13 MS ZAGO: Thank you, Mr President.

14 We have -- we have tried to organise the examination of this witness in the most
15 efficient manner. Therefore, matters of general knowledge that have already been
16 covered by other witnesses in the past, such as background, for instance, of the
17 elections, the parties, or also matters pertaining to the constitutional reform in 2005,
18 which is a matter that the Prosecution anticipates we'll be covering with this witness,
19 the general information will be very -- that will be asked about those general issues
20 will be very circumscribe and very limited with respect to this witness. So our
21 questioning with respect to -- to matters of general knowledge and background for
22 this witness will be very limited.

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted) Therefore, I -- I hear the submission by Mr Hooper that there are
4 some section of this examination that could be elicited in public; however, they will
5 be very, very limited and --

6 PRESIDING JUDGE EBOE-OSUJI: But the question -- that's not really the issue, it's
7 not defined by characterisation as something that's very limited. The issue is the
8 substance of that limited part of it. Except maybe background, can't the testimony
9 be taken in the usual menu with those very, as you say, limited background material
10 covered in public, or then you undertake that your testimony of this witness or
11 questioning of this witness will be limited only to (Redacted) and not the general
12 background questioning?

13 MS ZAGO: There will be inevitably certain questions about the background to
14 introduce, as open-ended questions, the topics. However, I would say that those
15 would end -- those indeed could be elicited in public, however --

16 MR (Redacted): (Via video link) (Overlapping speakers) ... you tell the Court?

17 THE COURT OFFICER: (Via video link) Huh?

18 MR (Redacted): (Via video link) How do you tell the Court?

19 PRESIDING JUDGE EBOE-OSUJI: (Redacted) It looks like not.

20 Mr (Redacted), are you -- can you hear me?

21 MR (Redacted): (Via video link) Yes, I can, your Honour. We were off line for
22 about 30 seconds or a minute.

23 PRESIDING JUDGE EBOE-OSUJI: All right. You had spoken and we heard you,
24 so I do not know whether the arrangement you have over there is the same as here
25 where counsel will press a button to speak so that you don't have an open

1 microphone at all times in case there's some matter you want to discuss over there
2 that you don't want us to hear. So keep that in mind.

3 Please, proceed, Ms Zago.

4 MS ZAGO: Thank you, Mr President.

5 As indicated before, there are certain limited questions that could be asked from the
6 witness in public; however, those would only be the -- for setting the -- or, lay the
7 foundation of further questioning and that further questioning that will be extensive
8 and the core of the witness's evidence will have, with your permission, be -- will have
9 to be elicited in private session, otherwise that would identify the witness.

10 Therefore, the Prosecution wonders what will be the benefit of the public to hear a
11 witness testifying only on certain very limited questions or matters that are of
12 background information that have already been covered by other witnesses?

13 PRESIDING JUDGE EBOE-OSUJI: You see the difficulty is this: You ask us to
14 make a ruling and once we make a ruling, it becomes at least procedurally difficult to
15 revise it. There will be a concern if we -- assuming we find -- and Mr Kigen-Katwa's
16 indicated that there are certain -- in view of the uniqueness of the testimony, he was
17 not opposing.

18 If on that basis we rule, as you've requested and Mr Kigen-Katwa has not opposed,
19 that the testimony be entirely in private and you tell us now that you would be asking
20 background questions that are only very limited, but as we get there it occurs that
21 maybe that should not be in private session, it becomes difficult to reconsider and go
22 through the exercise of reconsidering the prior ruling and saying, look, this should be
23 part of the testimony in public or we tell you don't lead that question, that line of
24 questioning, go to the part that are truly uniquely identifying. That's the difficulty
25 that I'm thinking about now.

1 MS ZAGO: I wonder, with respect, if that difficulty could not be solved by the
2 release of the transcripts of the testimony of this witness subsequently in the usual
3 manner that the transcripts are issued after the Prosecution and the Defence have
4 reviewed the transcripts and identified those portions that can be released publicly,
5 even with respect to private sessions; therefore, that could be a solution that I propose
6 with -- with respect to the Chamber if that proposal can be considered.

7 PRESIDING JUDGE EBOE-OSUJI: It is best to deal with these things in the most
8 efficient way and going back to review transcripts for purposes of releasing to the
9 public is something that should be done where necessary, but if we can already
10 anticipate that there may be testimony that is not necessary to lead in private session,
11 why do that?

12 MS ZAGO: Certainly, your Honour. We usually review every transcript for public
13 release before they are publicly released. It is a task that we have to undertake
14 under the directions of the Chamber. Certainly if the Chamber is not amenable to
15 that solution, we will withdraw the proposal.

16 PRESIDING JUDGE EBOE-OSUJI: Mr Narantsetseg has indicated that the
17 (Redacted)
18 (Redacted)

19 MS ZAGO: I apologise, I have some issues with my headset.

20 PRESIDING JUDGE EBOE-OSUJI: All right.

21 MS ZAGO: Your Honours --

22 PRESIDING JUDGE EBOE-OSUJI: Yes, the -- relating to the matter of the
23 (Redacted)
24 (Redacted)
25 (Redacted)

Trial Hearing

(Private Session)

ICC-01/09-01/11

1 (Redacted)

2 (Redacted)

3 MS ZAGO: Yes, your Honour, we do believe that it remains a concern. The

4 witness in that -- (Redacted)

5 (Redacted)

6 (Redacted) That part certainly the

7 Prosecution intends to lead in private session with your Honour's permission.

8 What we obviously have to acknowledge is that the identity of that witness if we ask

9 background questions concerning the elections only and limited to the parties and the

10 general issues discussed in Kenya at the time, certainly if only that portion will be

11 published, that we believe will not be necessarily identifying the witness.

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 PRESIDING JUDGE EBOE-OSUJI: Yes, Mr Kigen-Katwa.

23 MR KIGEN-KATWA: Mr President, may I explain the basis of our concession to the

24 application. Our concession is based entirely on (Redacted)

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 And when my learned friend Ms Zago says that there are some issues of background
6 that can be done in public, on the face of the statement it is not very manifest, and so
7 it's not like I'm speaking on behalf of the Prosecution, but our position is informed
8 entirely and exclusively by the structure, the content and the substance of the
9 statement that we were given, (Redacted)

10 (Redacted)

11 (Redacted)

12 PRESIDING JUDGE EBOE-OSUJI: Fair enough. But is it your position then -- do
13 you share the position now that you've heard the Prosecutor that if there is some
14 background material that any person in Kenya could speak to, that that should also
15 be led in private session because of the eventual connection of -- that the witness will
16 (Redacted)?

17 MR KIGEN-KATWA: This is how I would put it, your Honours: If background
18 information is to be elicited from this witness, at least on our part we would assume
19 that Ms Zago would have to step backwards from the statement for a moment and lay
20 the background, because on the basis of the statement, that kind of background
21 information is not there. I can easily see what kind of testimony that could be, for
22 instance, the date of the elections and issues like that, but that would be probably in a
23 limited sense outside this statement as a general background and we have absolutely
24 no objection to that, Mr President. We have absolutely no objection to that.

25 PRESIDING JUDGE EBOE-OSUJI: To what?

1 MR KIGEN-KATWA: To background information being elicited in public before

2 coming into the substance and the content of this statement. (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 PRESIDING JUDGE EBOE-OSUJI: All right.

7 Mr Hooper, one minute for you to react to any --

8 MR HOOPER: We recognize -- I'm sorry.

9 PRESIDING JUDGE EBOE-OSUJI: -- to Ms Zago's take on your submissions.

10 MR HOOPER: We recognize most of this witness's testimony will, we assume, be in

11 closed session. But we assert the principle of open session over and above

12 convenience, whatever remnant that may be.

13 PRESIDING JUDGE EBOE-OSUJI: Thank you.

14 MR NARANTSETSEG: Mr President, if I may shortly and very briefly, your Honour.

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing

(Private Session)

ICC-01/09-01/11

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 PRESIDING JUDGE EBOE-OSUJI: Mr Narantsetseg, was the limit of that
10 submission that (Redacted)

11 (Redacted) Is there any witness for whom that consideration will not
12 apply?

13 MR NARANTSETSEG: Your Honours, we admit the fact that in general, for
14 example, (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Your Honours, thank you.

25 PRESIDING JUDGE EBOE-OSUJI: Thank you.

1 (Trial Chamber confers)

2 PRESIDING JUDGE EBOE-OSUJI: The Chamber will rise for 10 minutes to
3 deliberate and return.

4 THE COURT USHER: All rise.

5 (Recess taken at 10.38 a.m.)

6 *(Upon resuming in private session at 10.49 a.m.) Reclassified as Open session

7 THE COURT USHER: All rise.

8 Please be seated.

9 PRESIDING JUDGE EBOE-OSUJI: Thank you very much. We will remain in
10 private session for the oral rulings.

11 First on the matter of the protection for the witness during his testimony. The
12 Chamber has heard, has received the filings of the Prosecution requesting that the
13 testimony of the witness be given entirely in private session. The usual menu
14 applies. Other than that, the VWU has made observations supporting that request.
15 We've now heard oral submissions from the parties and participants and the
16 Chamber rules as follows:

17 It may well be that in the outcome this witness's testimony will be given entirely in
18 the private session (Redacted) but
19 that does not require a ruling from the Chamber that the testimony of the witness will
20 be given entirely in the private session; the Chamber will, therefore, grant the usual
21 menu of in-court protective measures. It will be for the Prosecution to drive the
22 outcome of the testimony in that regard.

23 That is the ruling of the Chamber on the in-court protective measures.

24 MS ZAGO: As the Court pleases.

25 PRESIDING JUDGE EBOE-OSUJI: The second ruling is on Rule 74 assurances.

Trial Hearing

(Private Session)

ICC-01/09-01/11

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/09-01/11

1

2

3

4

5

6

7

8

9

10

11

12 Page redacted

13

14

15

16

17

18

19

20

21

22

23

24

25

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 I note now that we are within the -- we've just entered the morning-break hour, but

19 we will adjourn now and return at 2.30.

20 Normally we should return in 30 minutes, but we will return at 2.30, that is, that

21 takes -- rolls over into the luncheon break. The reason for that is to enable (Redacted)

22 review the materials that had not been given to him thus far and also to advise the

23 witness of the rulings of the Chamber, both as regards the witness protection measure,

24 the first ruling, and also as regards the Rule 74 measures.

25 Now, the hope is that when we come at 2.30 the Prosecution should be able to

1 proceed with the testimony of the witness at that time, subject to any submissions we
2 may hear from Mr (Redacted) about his preparedness to discharge his responsibilities
3 to the witness in light of the remaining documents he would have received in the
4 meantime.

5 The Chamber adjourns now and we will reconvene at 2.30.

6 THE COURT USHER: All rise.

7 (Recess taken at 11.03 a.m.)

8 (Upon resuming in open session at 2.36 p.m.)

9 THE COURT USHER: All rise.

10 Please be seated.

11 PRESIDING JUDGE EBOE-OSUJI: Thank you very much. Let's go into private session.

12 *(Private session at 2.37 p.m.) Reclassified as Open session

13 THE COURT OFFICER: (Interpretation) We are in private session, your Honour.

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

15 Mr (Redacted), inquiry to you now about the documents. You've received them and
16 you've reviewed them?

17 MR (Redacted): (Via video link) I have read the documents, your Honour. There
18 were nine documents which I read. I have listened also to two audio recordings and
19 explained the orders of the Court to the witness in relation to the usual court
20 protective measures and the Rule 74 assurances.

21 PRESIDING JUDGE EBOE-OSUJI: Thank you very much. We can now proceed on that
22 basis in the absence of that indication on your part that you are not in a position to discharge
23 your functions to the witness; is that the case?

24 MR (Redacted): (Via video link) I'm able to discharge my obligations to the
25 witness, your Honour.

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

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

2 Witness, ordinarily I would do this in the open session, but we're in private session,
3 and we will proceed that way. Can we have the solemn declaration administered.

4 WITNESS: KEN-OTP-P-0789

5 (The witness gives evidence via video link)

6 THE WITNESS: I solemnly declare that I will speak the truth, the whole truth and nothing
7 but the truth.

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

9 Prosecutor, are you in a position to advise about the Rule 66(3) and Rule 74(1) advisories?

10 MS ZAGO: Yes, your Honour. Thank you. The witness was advised about the content of
11 those Rules that your Honour has just referred to during his preparation last week.

12 PRESIDING JUDGE EBOE-OSUJI: Thank you.

13 Witness, thank you for joining us. And what I say to you now is what I've said to every
14 witness who has appeared before you. I begin by welcoming them to the Court and also by
15 telling them that in saying "Welcome to the Court," we don't mean to have you feel like a
16 stranger because this Court is your court. It belongs to you as much as it belongs to any of
17 the judges and lawyers in the courtroom doing the work of searching for the truth, and we
18 welcome you and thank you for joining us in that work.

19 The way that we search for the truth in the courtroom and in this courtroom is
20 through questions and answers, the questions from the lawyers and the answers that
21 you will have to give. Those questions would begin with those asked by the
22 Prosecution, who are the party that invited you to come and give testimony. Ms
23 Zago in this case is representing the Prosecution. She will begin asking you
24 questions.

25 And when she finishes, the Defence counsel, there are two teams of Defence counsel, they will

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1 take their turns asking you questions. Either Mr Kigen-Katwa or Mr Hooper, respectively
2 representing Mr Sang and Mr Ruto, will take their turns in asking you questions. And we
3 require you to answer those questions unless the Court directs you not to answer particular
4 questions.

5 It is important that you do your best to listen to the questions one at a time,
6 understand the question that is being asked of you and then answer that question
7 truthfully to the best of your knowledge and then stop. Do so concisely but
8 comprehensively and stop and wait for the next question, one question at a time.

9 In all of this, some of the questions may be more difficult than others to answer for
10 various reasons. It could be difficult because you did not understand the question,
11 then feel free to indicate that so that the questioner will repeat the question so that
12 you will understand it.

13 It may also be difficult because of how you feel about the question being asked. You
14 may consider certain questions as not fair, or repetitive, or concerns of that nature.
15 Do not worry about that part of the concern, whether or not a question is fair or
16 repetitive. It is for the Court to make that sort of determination. There are lawyers
17 in this courtroom who will help us in doing that by pointing out that certain
18 questions are not fair or repetitive, and we will make a ruling appropriately.

19 But until such a ruling is made asking you to not answer specific questions, the Court requires
20 you to answer every question that is asked of you. Do not worry about fairness because it is
21 a primary responsibility of the Judges in relation to witnesses, and we take that responsibility
22 seriously to ensure that witnesses are not treated unfairly because they have submitted to the
23 processes of the Court, sat down to take questions and have no choice but to answer those
24 questions. We will not allow lawyers to use that opportunity to ask unfair questions to
25 witnesses.

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1 Do you understand?

2 THE WITNESS: I understand, your Honour.

3 PRESIDING JUDGE EBOE-OSUJI: It is important always to focus, always focus on the
4 question, understand it and then answer simply and directly to the question. Listen
5 carefully. To do that also eliminate guess-work and speculation. If you do not know the
6 answer, simply say so. It doesn't help us if you speculate about an answer you do not know.
7 Also, do your best to limit your answers to what you actually perceived yourself and
8 try to avoid getting into hearsay testimony. You know what I mean by hearsay; you
9 heard somebody say something that bears on a factual assertion in the case. From
10 time to time it may be necessary to speak to what you heard. It may be necessary
11 from time to time, but we try not to see the necessity of that if it means giving specific
12 evidence that implicates an accused person in criminal conduct. For that we will
13 require your direct observations.

14 We've already made a ruling about witness protection, that is the protection that
15 should be given to you while you are testifying, and duty counsel assigned to you, we
16 understand, has already given you that information.

17 You will be testifying -- in summary, just to summarise what we've said, you will be
18 testifying. Some part of your testimony may be given in public session, but it is
19 anticipated that the bulk of your testimony, especially on the substance of your real
20 evidence (Redacted) will be given in private session.

21 When we're in private session, it means that the public will not be a part of that.
22 They will not be able to hear what you say. But when we're in public session, there
23 is still some protections that are given to you. You will be testifying under your
24 pseudonym 789 and not your real name. Your image will not also be directly
25 broadcast to the public, nor would your voice be directly broadcast to the public.

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1 There are some mechanisms to distort your image as well as your voice for the part of
2 the testimony that you will give in public. All those measures are designed to
3 protect your identity. And that also has a bearing on the need for you to listen
4 carefully to specific questions asked of you and to respond only to those questions.
5 This is because the lawyers asking you the questions know about the need to protect
6 your identity when we're in a public session, so they will be limiting their questions to
7 such that the answers you give during the public session will not reveal your identity.
8 So they know what questions, what answers they anticipate from you in asking particular
9 questions, so it is important that you just listen to specific questions and answer the question
10 specifically.
11 If you start asking -- answering questions or, rather, giving answers that are not
12 directly called for by the question, specific question asked, you may run the risk of
13 revealing your identity to those answers. So it is important that you just limit
14 yourself, your answer to the question asked and not talk about something else.
15 But if in answering a specific question, if you think about it and consider that while
16 the particular question does not give you the opportunity to fully answer it, you may
17 indicate that, and we'll take that into account in deciding whether or not to go into
18 private session to receive the rest of your answer.
19 The idea is not to constrain you from answering questions fully because we're in the
20 public session. The idea is, rather, to protect you. And you need to help us do that.
21 Do you understand?

22 THE WITNESS: Yes, I do understand, your Honour.

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

24 Now, there is an aspect of the matter that's also very, very important, that is the logistics of it.
25 We work and our work is made possible and easier by the assistance of certain court officials.

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1 The court reporters who are transcribing and reporting what you say to keep record of your
2 testimony, as well as the court interpreters who have to interpret what you say, we have to
3 keep them in mind and make their work easier in order to assist us. For that purpose we will
4 require you to speak at a moderate pace, not too fast and not too slow.

5 I note that you are testifying in English, and that is a good thing because it makes the
6 proceedings to go faster, but also we do not want to make it too fast so that the
7 interpreters and court reporters are not able to follow. And that happens when, for
8 instance, if the questioner who is speaking in English finishes asking you a question
9 or even before they finish, you know what the answer is and then you start
10 immediately to answer it, if you do that, then you're making the work of the court
11 reporters difficult and interpreters.

12 We need you to observe a gap. We call it a five-second rule. You count up to five
13 in your mind, to five seconds, before you start answering. In observing that gap,
14 what happens is the interpretation, the person who is interpreting your answer in the
15 background, the person who is interpreting the question would have finished, and
16 that five seconds gap gives the opportunity to the interpreter to finish before you start
17 answering. It is important that we proceed in that way.

18 Do your best at all times to avoid overlapping speaking. The interpreters and court
19 reporters are able to hear you and us and the lawyers only through the microphone.
20 Because of that it is important that only one person needs to be speaking at the
21 microphone at any point in time. Do you understand?

22 THE WITNESS: Yes, your Honour.

23 PRESIDING JUDGE EBOE-OSUJI: Thank you. So the five-second rule, please keep that in
24 mind.

25 On that note, again, we thank you for joining us and Ms Zago will begin questioning

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1 you now.

2 Yes, Mr Kigen-Katwa, you rise?

3 MR KIGEN-KATWA: Yes, Mr President. Mr President, I have an application to make. I
4 request for your leave to have Mr Koech conduct the testimony of this witness.

5 PRESIDING JUDGE EBOE-OSUJI: Granted.

6 MR KIGEN-KATWA: We're obliged, Mr President.

7 PRESIDING JUDGE EBOE-OSUJI: Ms Zago, we're in private session. We can now go into
8 public or do we remain in private for now?

9 MS ZAGO: My intention would be to start with asking the witness to examine his own CV
10 and ask additional follow-up questions. I can ask the witness to examine the document in
11 public and then we will go to private session --

12 PRESIDING JUDGE EBOE-OSUJI: No. Let's stay --

13 MS ZAGO: -- with your leave.

14 PRESIDING JUDGE EBOE-OSUJI: Let's stay in private for that.

15 MS ZAGO: I'm guided. Thank you, Mr President.

16 QUESTIONED BY MS ZAGO:

17 Q. Good afternoon. Good afternoon, sir.

18 A. Good afternoon to you.

19 Q. Again, my name is Alice Zago and I represent the Office of the Prosecutor and will
20 conduct your examination today and in the next few days.

21 A. Excuse me? Sorry.

22 Q. Yes, sir.

23 A. Before I -- before I proceed to all your questioning, I wanted to raise some few concerns
24 first before we continue.

25 PRESIDING JUDGE EBOE-OSUJI: Please proceed.

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1 THE WITNESS: Well, I thought that it would be necessary at this juncture to probably bring
2 to your attention some my -- some of my concerns that I have before I -- and if I give the
3 testimony.

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 I would like at this point in time to raise a few concerns for your indulgence or as we
11 proceed. I rest be assured on those circumstances or those issues, so we proceed.

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page redacted

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1 (Redacted)
2 (Redacted)
3 (Redacted)
4 (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted)
19 (Redacted)
20 (Redacted)
21 (Redacted)

22 PRESIDING JUDGE EBOE-OSUJI: All right. Thank you very much.

23 Ms Zago, what's -- before I speak to the witness, we'll need to hear from you. You've
24 heard the witness's remarks. (Redacted)

25 What can you say to the witness? He has already indicated concern about (Redacted)

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1 (Redacted)

2 MS ZAGO: As far as I understand the process, after -- but I probably would like the

3 VWU to speak to this -- (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 PRESIDING JUDGE EBOE-OSUJI: Thank you.

20 Witness, to begin with, we should let you know that there have been many witnesses

21 who have testified before you in this case. You are not the first one. That does not

22 of course diminish the concerns you have in your mind, but it is important to let you

23 know that. There have been other witnesses who have testified. (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 THE WITNESS: Yes, your Honour. I understand.

10 PRESIDING JUDGE EBOE-OSUJI: All right. So let us proceed on that note.

11 MS ZAGO: Thank you, Mr President.

12 Q. Sir, good afternoon again.

13 A. Good afternoon.

14 Q. I'd like to start your examination today by asking you to examine a brief document that
15 was compiled, which is entitled "CV" - curriculum vitae - "personal information."

16 And with the assistance of the court officer in (Redacted) I would like to -- for you to
17 examine page 3 of the protected information sheet.

18 Can I ask the court officer to confirm whether the witness has the document in front
19 of him.

20 THE COURT OFFICER (Via video link): The witness has indeed the document in front of
21 him and is currently reading it in its electronic version.

22 MS ZAGO: Thank you.

23 Q. Witness, could you please take a moment, review the information that is contained in
24 this document and let us know whether the information is accurate or not.

25 A. Okay. The part of education.

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1 Q. Yes, sir, we're listening.

2 A. Yeah. (Redacted) But there are two
3 more items that needs to be added there.

4 Q. Yes, sir. What is the information that you would like to add at this point?

5 A. Yeah, (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 PRESIDING JUDGE EBOE-OSUJI: The full -- full names of the abbreviated letters?

18 THE WITNESS: (Redacted)

19 MS ZAGO:

20 Q. Thank you, sir. Is there any other corrections or additions that you would like to
21 provide us with respect to your CV?

22 A. No. The education level, that's all.

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 Q. And is there a common language among the Kalenjin, all the Kalenjin sub-groups, that
8 is generally understood by all the groups?

9 A. Yes.

10 Q. And what is that language called?

11 A. Mostly Nandi.

12 Q. And would it be fair to say that colloquially Nandi is also referred to as Kalenjin
13 language?

14 A. Yeah, for somebody who doesn't know the various sub-tribes.

15 Q. And do you speak Nandi?

16 A. Yeah.

17 PRESIDING JUDGE EBOE-OSUJI: Witness, we have to have you say "Yes" or "No," because
18 "Yeah" can mean yes, it can also mean no, depending on the context.

19 THE WITNESS: Thank you, sir. Yes.

20 MS ZAGO:

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page redacted

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page redacted

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page redacted

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page redacted

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page redacted

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page redacted

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page redacted

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page redacted

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page redacted

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page redacted

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page redacted

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page redacted

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page redacted

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

1 PRESIDING JUDGE EBOE-OSUJI: There was a brief disconnection with (Redacted)

2 Is it back on? Witness, can you hear us now?

3 THE WITNESS: Yes, your Honour.

4 (Trial Chamber confers)

5 PRESIDING JUDGE EBOE-OSUJI: Yes, proceed, Ms Zago.

6 MS ZAGO: Thank you, Mr President.

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
Witness: KEN-OTP-P-0789

(Private Session)

ICC-01/09-01/11

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 MS ZAGO: Mr President, I don't have any more questions on the topic for today.
- 18 PRESIDING JUDGE EBOE-OSUJI: Thank you very much. We will leave it there for now.
- 19 Witness, we have come to the end of our proceedings for today. You will rejoin us
- 20 tomorrow at 9.30 our time. The court staff there will arrange for your return to the
- 21 courtroom at the right time to continue your testimony. Do not discuss your
- 22 testimony with anybody overnight. Do you understand?
- 23 THE WITNESS: Yes, your Honour.
- 24 PRESIDING JUDGE EBOE-OSUJI: Thank you very much.
- 25 We will adjourn now and resume tomorrow.

Trial Hearing

(Private Session)

ICC-01/09-01/11

Witness: KEN-OTP-P-0789

- 1 THE COURT USHER: All rise.
- 2 *(The hearing ends in private session at 4.04 p.m.) Reclassified as open session
- 3 RECLASSIFICATION REPORT
- 4 Pursuant to Trial Chamber V(a) 's Decision, ICC-01/09-01/11-981, dated 24 September
- 5 2013, the version of the transcript with its redactions becomes Public.