

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No.: ICC-01/09-02/11

Date: 19 June 2012

**TRIAL CHAMBER V**

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

**SITUATION IN THE REPUBLIC OF KENYA**

**IN THE CASE OF  
THE PROSECUTOR *v.* FRANCIS KIRIMI MUTHAURA  
AND  
UHURU MUIGAI KENYATTA**

**Public**

**Order on the E-Court Protocol**

**Order to be notified, in accordance with regulation 31 of the *Regulations of the Court*, to:**

**The Office of the Prosecutor**

Ms Fatou Bensouda

Ms Cynthia Tai

**Counsel for Francis Kirimi Muthaura**

Mr Karim Khan, Mr Essa Faal,

**Counsel for Uhuru Muigai Kenyatta**

Mr Steven Kay

Ms Gillian Higgins

**Legal Representatives of Victims**

Mr Morris Anyah

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparation**

**The Office of Public Counsel for  
Victims**

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

**States Representatives**

*Amicus Curiae*

**REGISTRY**

---

**Registrar**

Ms Silvana Arbia

**Deputy Registrar**

**Victims and Witnesses Unit**

Ms Maria Luisa Martinod-Jacome

**Detention Section**

**Victims Participation and Reparations  
Section**

Ms Fiona McKay

**Others**

1. In its "Order scheduling a status conference", issued on 14 May 2012,<sup>1</sup> Trial Chamber V ("Chamber") scheduled a status conference for 12 June 2012. The Chamber also issued an agenda for that status conference and requested the parties, participants and the Registry to make written submissions on some or all of the items on the agenda. One of the items was the applicable E-Court Protocol.
2. The written submissions were filed on 28 May 2012, within the time limit set by the Chamber.<sup>2</sup> The Office of the Prosecutor ("prosecution") submitted that the parties and participants should apply the revised 'Generic E-Court Protocol', as endorsed by Pre-Trial Chamber I in the case *Prosecutor v. Laurent Gbagbo*.<sup>3</sup> The generic protocol is an updated version of the E-Court Protocol currently applicable in this case and is currently being further updated by the E-Court Users Group.
3. The Registry equally recommended the adoption of the same E-Court Protocol and annexed the most updated version for consideration by the Chamber.<sup>4</sup>
4. Neither Defence team made any specific submission in relation to which version of the E-Court Protocol should be applied. However, the Defence for Mr. Muthaura requested the addition of a new metadata field called 'Related to Witness'.<sup>5</sup> The Defence for Mr. Kenyatta, for its part, simply requested to be provided with the right equipment in order to be able to comply with the E-Court Protocol.<sup>6</sup>

---

<sup>1</sup> ICC-01/09-02/11-422.

<sup>2</sup> Prosecution's Submissions on the Agenda for Status Conference, ICC-01/09-02/11-428, with confidential and confidential *ex parte* annexes; Defence Submissions on the status conference agenda items contained in the Trial Chamber's "Order scheduling a status conference" of 14 May 2012 [from the defence counsel for Francis Kirimi Muthaura], ICC-01/09-02/11-427; Defence for Uhuru Muigai Kenyatta Submissions on Status Conference Agenda In Response to Trial Chamber Order dated 14 May 2012 (ICC-01/09-02/11-422), ICC-01/09-02/11-429; Victims' Submissions in Response to the Order Scheduling a Status Conference, ICC-01/09-02/11-426; Registry submissions following the "Order scheduling a status conference", ICC-01/09-02/11-430 with an annex.

<sup>3</sup> ICC-01/09-02/11-428, para. 28

<sup>4</sup> ICC-01/09-02/11-430-Anx1

<sup>5</sup> ICC-01/09-02/11-427, para. 18

<sup>6</sup> ICC-01/09-02-11-429, para. 17

5. The Victims' Legal Representative did not make any submissions in relation to which E-Court Protocol should apply.<sup>7</sup>
  
6. The Chamber takes note of the written submissions of the parties, participants and the Registry. It sees no reason to depart from the Registry's recommendation to adopt the updated 'Generic E-Court Protocol', subject to any appropriate technical improvements. If the E-Court Users Group considers it feasible to implement the request by the Defence for Mr. Muthaura, the Chamber welcomes this addition to the E-Court Protocol. To avoid any disputes, the Chamber suggests that objective criteria be formulated that will allow parties to identify which information they are required to add to the proposed new field.

---

<sup>7</sup> ICC-01/09-02/11-426  
No. ICC-01/09-02/11

**FOR THESE REASONS, THE CHAMBER**

**ORDERS** the Registry to file a fully revised and updated Generic E-Court Protocol, including, if possible, the newly proposed metadata field, no later than 5 July 2012.

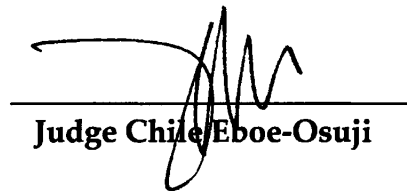
Done in both English and French, the English version being authoritative.



**Judge Kuniko Ozaki, Presiding**



**Judge Christine Van den Wyngaert**



**Judge Chile Eboe-Osuji**

Dated this 19 June 2012

At The Hague, The Netherlands