

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/09-01/11
Date: 7 November 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. WILLIAM SAMOEI RUTO and JOSHUA ARAP SANG***

Public

Decision on updated report on joint instruction of experts

Decision to be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor
Ms Fatou Bensouda

Counsel for William Samoei Ruto
Mr Kioko Kilukumi Musau
Mr David Hooper

Legal Representatives of Victims
Ms Sureta Chana

Counsel for Joshua Arap Sang
Mr Joseph Kipchumba Kigen-Katwa
Mr Joel Kimutai Bosek
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

Detention Section

**Victims Participation and Reparations
Section**

Others

Trial Chamber V (“Chamber”) of the International Criminal Court in the case of *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang* (“Ruto and Sang case”), pursuant to Regulation 44 of the Regulations of the Court, renders the following Decision on updated report on joint instruction of experts.

1. On 9 July 2012, the Chamber instructed the Prosecutor (“prosecution”) and the defence teams of both accused persons (“defence”) to liaise in order to discuss the joint instruction of experts, and directed the prosecution to revert to the Chamber on the outcome of these discussions by 31 October 2012.¹

2. On 31 October 2012 the prosecution submitted a report on the joint instruction of experts.² In its report, the prosecution provides details on the status of discussions with the defence regarding three areas of proposed expert evidence: social and political background, satellite imagery and Post-Traumatic Stress Disorder (“PTSD”) and two potential experts the prosecution has identified within these categories.³ The prosecution submits that with respect to the proposed evidence on social and political background and satellite imagery, “discussion is advancing with both Defence teams”.⁴ The prosecution informs the Chamber that “there appears to be no realistic prospect of an agreement [...] with the Defence for Mr Sang, to jointly instruct an expert in PTSD” but submits that discussions are still underway with the defence team for Mr Ruto on this issue.⁵ On this basis, the prosecution suggests that *inter partes* discussions should be allowed to continue for an additional 30 days, and that it provide a report to the Chamber on the outcome of these discussions by 30 November 2012.⁶

¹ Decision on the schedule leading up to trial, 9 July 2012, ICC-01/09-01/11-440, para. 12.

² Prosecution’s report on joint instruction of experts, ICC-01/09-01/11-465.

³ ICC-01/09-01/11-465, para. 2.

⁴ ICC-01/09-01/11-465, para. 16.

⁵ ICC-01/09-01/11-465, para. 17.

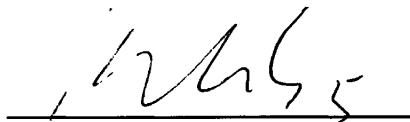
⁶ ICC-01/09-01/11-465, para. 18.

3. In the Decision on schedule leading up to trial, the Chamber emphasised that the joint instruction of experts would significantly assist the work of the Court.⁷ Given the status of the discussions as described in the prosecution's report, the Chamber agrees that the parties should continue to endeavour to reach an agreement on the areas of expert evidence and the joint instruction of experts. The prosecution is to provide an updated report to the Chamber on the outcome of these discussions by 30 November 2012.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

DIRECTS the parties to continue *inter partes* discussions on the joint instruction of experts and directs the prosecution to provide an updated report to the Chamber on the outcome of these discussions by 30 November 2012 .

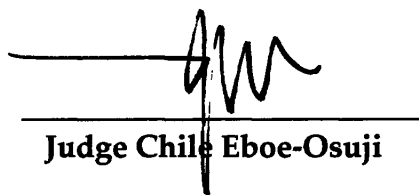
Done in both English and French, the English version being authoritative.



Judge Kuniko Ozaki, Presiding



Judge Christine Van den Wyngaert



Judge Chile Eboe-Osuji

Dated this 7 November 2012

At The Hague, The Netherlands

⁷ ICC-01/09-01/11-440, para. 12.