

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 4 January 2013

TRIAL CHAMBER V

Before: Judge Kuniko Ozaki, Presiding Judge
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

Decision on the prosecution's request for extension of the page limit for its pre-trial brief

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 Francis Kirimi Muthaura

Mr Karim Khan, Mr Essa Faal,
Mr Kennedy Ogetto, Ms Shyamala
Alagenda

Counsel for Uhuru Muigai Kenyatta

Mr Steven Kay
Ms Gillian Higgins

Legal Representatives of Victims

Mr Fergal Gaynor

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

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

States Representatives

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 (“Court”) in the case of *The Prosecutor v. Francis Kirimi Muthaura and Uhuru Muigai Kenyatta*, pursuant to Regulation 37 of the Regulations of the Court (“Regulations”), renders the following Decision on the prosecution’s request for extension of the page limit for its pre-trial brief.

1. On 9 July 2012, the Chamber instructed the Office of the Prosecutor (“prosecution”) to file a pre-trial brief explaining its case with reference to the evidence it intends to rely on at trial.¹ This brief is to contain, for each count, a summary of the relevant evidence of each witness to be relied on at trial and all other evidence upon which the prosecution intends to rely, and shall clearly explain how the evidence relates to the charges.²
2. On 14 December 2012, the prosecution submitted its “Prosecution’s Request for Extension of the Page Limit for its Pre-Trial Brief” (“Request”).³ The prosecution seeks the Chamber’s authorisation to extend the standard 20 page limit to 75 pages,⁴ arguing that this extension is justified because: (i) of the nature of the pre-trial brief and the scope of the issues to be addressed therein,⁵ (ii) of the fact that this case involves two accused⁶ and (iii) other Chambers have granted similar requests.⁷
3. On 3 January 2013, pursuant to an email from the Chamber shortening the response time to this date, the Kenyatta defence team filed a response which did not object to

¹ Decision on the schedule leading up to trial, 9 July 2012, ICC-01/09-02/11-451, para. 20.

² ICC-01/09-02/11-451, para. 20.

³ ICC-01/09-02/11-573.

⁴ ICC-01/09-02/11-573, para. 5.

⁵ ICC-01/09-02/11-573, paras 2-3.

⁶ ICC-01/09-02/11-573, para. 3.

⁷ ICC-01/09-02/11-573, para. 4, *citing* Decision on prosecution's request for extension of page limit, 10 December 2007, ICC-01/04-01/06-1070; Order on prosecution's request for extension of the page limit of updated “Summary of Presentation of Evidence”, 23 May 2008, ICC-01/04-01/06-1350; Order granting the Prosecution's Application for Extension of the Page Limit of its Summary of Presentation of Evidence, 29 October 2009, ICC-01/05-01/08-578.

the Request being granted.⁸ The Muthaura defence team filed no response.

4. The Chamber considers that the reasons advanced in the Request justify acting pursuant to Regulation 37(2) of the Regulations⁹ to extend the page limit for the pre-trial brief to 75 pages. In particular, exceptional circumstances exist for granting this page limit extension because of: (i) the length and complexity of the charges which are to be addressed in the pre-trial brief, (ii) the fact that there are multiple accused in this case and (iii) the benefits to the defence and the Chamber of a more detailed articulation of the prosecution's case.

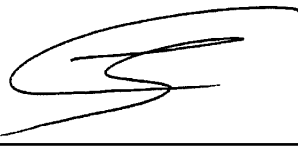
THE CHAMBER HEREBY

GRANTS the Request.

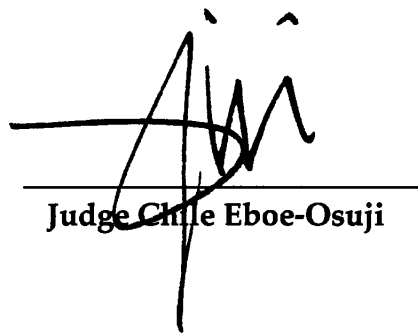
Done in both English and French, the English version being authoritative.



Judge Kuniko Ozaki, Presiding



Judge Christine Van den Wyngaert



Judge Chile Eboe-Osuji

Dated 4 January 2013

At The Hague, The Netherlands

⁸ Defence Response to the "Prosecution Request for extension of the page limit for its pre-trial brief", 3 January 2013, ICC-01/09-02/11-589.

⁹ "The Chamber may, at the request of a participant, extend the [20 page standard] page limit in exceptional circumstances".