

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 19 June 2013

TRIAL CHAMBER V(A)

Before: Judge Chile Eboe-Osuji, Presiding
Judge Olga Herrera Carbuca
Judge Robert Fremr

SITUATION IN THE REPUBLIC OF KENYA

**IN THE CASE OF
*THE PROSECUTOR v. WILLIAM SAMOEI RUTO and JOSHUA ARAP SANG***

Public

Order requesting submissions on the conduct of the proceedings

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

The Office of the Prosecutor

Ms Fatou Bensouda
Mr James Stewart

Counsel for William Samoei Ruto

Mr Karim Khan
Mr Kioko Kilukumi Musau
Mr David Hooper

Counsel for Joshua Arap Sang

Mr Joseph Kipchumba Kigen-Katwa
Mr Silas Chekera

Legal Representatives of Victims

Mr Wilfred Nderitu

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

Mr Herman von Hebel

Deputy Registrar

Victims and Witnesses Unit

Mr Patrick Craig

Detention Section

**Victims Participation and Reparations
Section**

Others

Trial Chamber V(A) (“Chamber”) of the International Criminal Court (“Court”), in the case of *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*, having regard to Articles 64(3)(a) and (8)(b) of the Rome Statute (“Statute”), Rule 140 of the Rules of Procedure and Evidence (“Rules”) and Regulation 54 of the Regulations of Court, issues this Order requesting submissions on the conduct of the proceedings.

1. On 3 June 2013 the Chamber set 10 September 2013 as the new date for start of trial.¹
2. Pursuant to Article 64(8)(b) of the Statute, the Chamber intends to give directions on the conduct of proceedings at trial. These shall include directions on the order and manner in which evidence shall be submitted within the meaning of Rule 140 of the Rules. In order to facilitate the preparation of these directions and mindful of the provisions of Article 64(3)(a) of the Statute, the Chamber hereby requests further information and submissions from the parties and the Common Legal Representative for Victims as set out below.
 - (i) The Office of the Prosecutor (“Prosecution”), the Defence teams for both accused (“Defence”) and the Common Legal Representative are directed to indicate whether they intend to make opening statements at the commencement of trial and, if so, provide an estimate of time and an indication of any technical or logistical consideration to be taken into account for planning purposes.

¹ Decision on prosecution requests to add witnesses and evidence and defence requests to reschedule the trial start date, ICC-01/09-01/11-762, page 35.

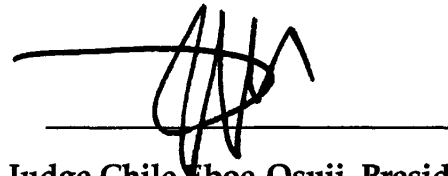
- (ii) The Prosecution is directed to provide a schedule listing the order of the first ten witnesses (including expert witnesses as the case may be) it intends to call.
- (iii) The Defence is directed to provide its views on the Prosecution's estimates as to the questioning time of its witnesses,² including whether the Defence anticipates that it will need equal time for cross-examination of each witness.
- (iv) The Defence and Prosecution are requested to indicate (a) whether they would object to certifying ahead of the commencement of trial that the accused read and understood the Document Containing the Charges in its entirety; and (b) whether they would object to the counts section of the Document Containing the Charges being read to the accused at the commencement of trial for purposes of fulfilling the requirement of Article 64(8)(a) of the Statute. What are the grounds of any such objection?
- (v) The Prosecution, the Defence and the Common Legal Representative are directed to file submissions on whether "no case to answer" motions requesting dismissal of one or more counts at the conclusion of the prosecution's case should be allowed in the case.

² See Annex A to Prosecution's provision of materials pursuant to Decision ICC-01/09-01/11-440, 9 January 2013, ICC-01/09-01/11-540-Conf-AnxA-Red.

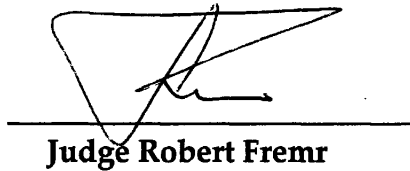
- (vi) The Prosecution is directed to indicate whether the issue of self-incrimination may arise in relation to any of its witnesses (Rule 74 of the Rules).
- (vii) The Prosecution is directed to indicate whether it intends to file applications for witness in-court protective measures pursuant to Rules 87 and 88 of the Rules.
- (viii) The Prosecution, the Defence and the Common Legal Representative are directed to file submissions with their views on:
 - (a) the order, among the parties and participants, in which witnesses should be questioned (including by the Common Legal Representative as appropriate);
 - (b) the timing and manner in which the Common Legal Representative should request authorisation from the Chamber in order to question a witness or present evidence at trial (Rule 91(2) of the Rules);
 - (c) the procedure for the use of material during questioning (including advance notification thereof and procedure for objections);
 - (d) the procedure for admission of material tendered through witnesses as evidence in the case (including assignment of evidence numbers);

- (e) other procedures for admission of other material as evidence in the case (other than through witnesses);
 - (f) whether recourse should be had to Rule 68 of the Rules (admission of prior recorded testimony) and the procedure to be followed.
3. The above information and submissions should be filed by 3 July 2013.
 4. Additionally, the Chamber directs any party intending to raise any objections or observations at the commencement of trial within the meaning of Rule 134 of the Rules to submit a written notice setting out the content and grounds for any such objection or observation. The written notice should be filed by 12 August 2013 with responses, if any, to be filed by 26 August 2013.

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

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Judge Chile Eboe-Osuji, Presiding

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Judge Robert Fremr

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Judge Olga Herrera Carbuccia

Dated this 19 June 2013

At The Hague, The Netherlands