

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 1 August 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 authorising disclosure of a lesser redacted victim application
of Witness 128**

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

Mr Anton Steynberg

Counsel for William Samoei Ruto

Mr Karim Khan

Mr David Hooper

Mr Kioko Kilukumi

Ms Shyamala Alagendra

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) (the ‘Chamber’) of the International Criminal Court (the ‘Court’), in the case of *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*, having regard to Regulation 23bis(2) and 42 of the Regulations of the Court (the ‘Regulations’), issues this Order authorising disclosure of a lesser redacted victim application of Witness 128.

1. On 5 July 2013, the Office of the Prosecutor (‘Prosecution’) filed a request for authorisation to disclose with lesser redactions five victims’ applications relating to five witnesses that the Prosecution intends to call at trial (‘Previous Request’).¹ On 16 July 2013, the defence for Mr Sang (the ‘Sang Defence’) filed its response, stating support for the Prosecution’s request.²
2. On 24 July 2013, the Chamber issued an order authorising disclosure of the victims’ applications,³ noting that no parties had opposed the lifting of the redactions.⁴ The Chamber also noted that the limited redactions that the Prosecution wished to maintain consisted of contact information of witnesses that was not relevant to any aspect of the present case, which were authorised by the Chamber.⁵
3. On 24 July 2013, the Prosecution sent an Email to the Chamber, copied to both defence teams, proposing to disclose a lesser redacted victim application for an additional witness, i.e. Witness 128 (the ‘Victim Application’).⁶ The Prosecution indicated that this lesser redacted version had been agreed upon by the Legal Representative of Victims, and that the proposed redactions are ‘identical in nature to those accepted by the Chamber for the previous five victim applications,

¹ Prosecution application to disclose lesser redacted versions of five victims’ application forms, ICC-01/09-01/11-801.

² Sang Defence Response to the Prosecution Application to Disclose Lesser Redacted Versions of Five Victims’ Application Forms, ICC-01/09-01/11-815, para. 2.

³ Order authorising disclosure of lesser redacted versions of victims’ applications, ICC-01/09-01/11-826.

⁴ ICC-01/09-01/11-826, para 5.

⁵ ICC-01/09-01/11-826, para 6.

⁶ Email from the Prosecution to Trial Chamber V(A) Communications on 24 July 2013 at 18 :55.

consisting of personal contact information' and requested that the Chamber authorise disclosure of the lesser redacted version.⁷ Because the proposed redactions to the Victim Application are similar to those in the Previous Request, and in order to avoid further delay, the Prosecution requested permission to submit to the Chamber a copy of the proposed redactions for review by email, rather than making an additional filing.⁸

4. On 25 July 2013, the Chamber replied to the Prosecution's email, accepting the Prosecution's request to submit a copy of the proposed redactions by email.⁹ On the same day, the Prosecution submitted to the Chamber a copy of the proposed redactions to the Victim Application via email.¹⁰
5. Having reviewed the proposed lesser redacted version of the Victim Application, the Chamber notes that the proposed redactions indeed only concern contact information, which is identical in nature to the information which the Chamber authorised to redact in its order of 24 July 2013. Further, the Chamber notes that the Legal Representative of Victims agreed with the proposed lesser redacted version, and that the Sang Defence had responded favourably in support of the Previous Request.¹¹ Therefore, the Chamber hereby authorises the Prosecution to disclose the lesser redacted version of the Victim Application, as proposed by the Prosecution in its Email.¹²

⁷ Email from the Prosecution to Trial Chamber V(A) Communications on 24 July 2013 at 18:55.

⁸ Email from the Prosecution to Trial Chamber V(A) Communications on 24 July 2013 at 18:55.

⁹ Email from Legal Officer of Trial Chamber V(A) to the Prosecution on 25 July 2013 at 11:55.

¹⁰ Email from the Prosecution to Trial Chamber V(A) Communications on 25 July 2013 at 15:23.

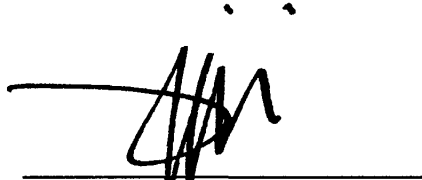
¹¹ Sang Defence Response to the Prosecution Application to Disclose Lesser Redacted Versions of Five Victims' Application Forms, ICC-01/09-01/11-815, para. 2.

¹² Attachment to an email from the Prosecution to Trial Chamber V(A) Communications on 25 July 2013 at 15:23.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

AUTHORISES the Prosecution to disclose the lesser redacted version of the victim application related to Witness 128.

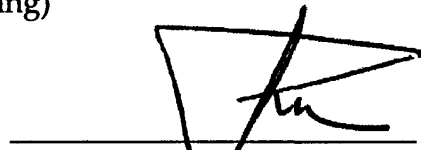
Done in both English and French, the English version being authoritative.



Judge Chile Eboe-Osuji
(Presiding)



Judge Olga Herrera Carbuccion



Judge Robert Fremr

Dated 1 August 2013

At The Hague, The Netherlands