

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/09-01/11
Date: 25 September 2013

TRIAL CHAMBER V(A)

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

SITUATION IN THE REPUBLIC OF KENYA

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

Public

**Decision Regarding Prosecution Request for Leave to Reply to Sang Defence
Response to Application for Addition of 104 Documents to the List of Evidence**

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 Essa Faal

Ms Shyamala Alagendra

Counsel for Joshua Arap Sang

Mr Joseph Kipchumba Kigen-Katwa

Ms Caroline Buisman

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****Detention Section****Victims Participation and Reparations
Section****Others**

Trial Chamber V(A) (the 'Chamber') of the International Criminal Court, in the case of *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*, having regard to Regulations 24(5) and 34(c) of the Regulations of the Court (the 'Regulations'), issues this Decision Regarding Prosecution Request for Leave to Reply to Sang Defence Response to Application for Addition of 104 Documents to the List of Evidence.

1. On 9 September 2013, the Office of the Prosecutor (the 'Prosecution') filed the 'Prosecution application pursuant to Regulation 35(2) for addition of documents to the list of evidence'.¹
2. On 18 September 2013,² the defence team for Mr Sang (the 'Sang Defence') responded to this application (the 'Sang Defence Response').³
3. On 23 September 2013, the Prosecution sought leave to reply to the Sang Defence Response,⁴ arguing that the Sang Defence has either misunderstood, or misinterpreted, the Prosecution's previous submissions and undertakings with respect to retaining audio-visual materials on its list of evidence which required transcriptions and/or translations.⁵
4. The Chamber considers further submissions would be of assistance because the Sang Defence Response raises issues beyond those addressed in the original application which require clarification from the Prosecution. Pursuant to

¹ ICC-01/09-01/11-915-Conf (with two confidential annexes and one confidential *ex parte* annex).

² Pursuant to the Chamber's direction, responses were due by this date. *See* email from TC V(A) Communications, 10 September 2013, 17:40.

³ Sang Defence Response to Prosecution Application pursuant to Regulation 35(2) for Addition of Documents to the List of Evidence, 18 September 2013, ICC-01/09-01/11-949-Conf. The defence team for Mr Ruto also filed a response. Defence response to the Prosecution's application pursuant to Regulation 35(2) for addition of documents to the list of evidence, 18 September 2013, ICC-01/09-01/11-944-Conf.

⁴ Prosecution's Request for Leave to Reply to the "Sang Defence Response to Prosecution Application pursuant to Regulation 35(2) for Addition of Documents to the List of Evidence", 23 September 2013, ICC-01/09-01/11-978-Conf.

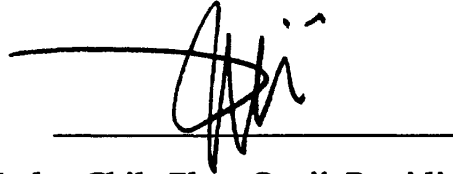
⁵ ICC-01/09-01/11-978-Conf, para. 5.

Regulation 24(5) of the Regulations,⁶ the Chamber grants the relief sought by the Prosecution.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

GRANTS the Prosecution leave to reply to the Sang Defence Response within the timeframe provided in Regulation 34(c) of the Regulations.

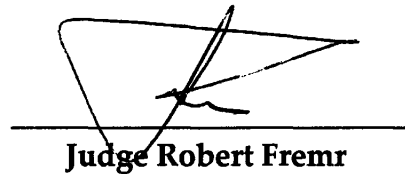
Done in both English and French, the English version being authoritative.



Judge Chile Eboe-Osuji, Presiding Judge



Judge Olga Herrera Carbuca



Judge Robert Fremr

Dated 25 September 2013

At The Hague, The Netherlands

⁶ 'Participants may only reply to a response with the leave of the Chamber, unless otherwise provided in these Regulations'.