

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/09-01/11
Date: 01 February 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. WILLIAM SAMOEI RUTO
AND
*JOSHUA ARAP SANG***

Public

**Order requesting observations in relation to the “Joint Defence Application for
change of place where the Court Shall Sit for Trial”**

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 Ruto

Mr David Hooper

Mr Kioko Kilukumi Musau

Counsel for Joshua 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**

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

States Representatives

The Government of the Republic of
Kenya;

The Government of the United Republic
of Tanzania

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Deputy Registrar

Mr Didier Preira

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Others

International Criminal Tribunal for
Rwanda

Trial Chamber V (“Chamber”) of the International Criminal Court (“Court”) in the case of *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*, pursuant to Articles 3 and 62 of the Rome Statute and Rule 100 of the Rules of Procedure and Evidence, issues this Order requesting observations.

1. On 24 January 2013, the defence teams for Mr Ruto and Mr Sang (“Defence”) filed with the Presidency a “Joint Defence Application for a Change of Place where the Court Shall Sit for Trial”,¹ arguing that it would be “impractical to have the two trials heard in different places as far apart as The Hague and East Africa”.² The Defence contends that a change of venue to either Kenya or Tanzania is in the “respective interests of all the parties concerned and is desirable in the interests of justice when all the necessary factors are considered.”³ The Defence requested the Presidency to ask the Trial Chamber to receive observations from the Office of the Prosecutor (“Prosecutor”), the Legal Representative of the Victims and, in particular, the Registry, on the possibility of the trial being held in Kenya, or alternatively, at the International Criminal Tribunal for Rwanda (ICTR) in Arusha, Tanzania.⁴ Further, the defence states that it is ready to make further views known to the Chamber if the Chamber seeks them or is requested by the Presidency to seek them.⁵
2. On 18 January 2013, the Court had received a letter from a representative of the authorities of the Republic of Kenya, dated 11 January 2013, requesting an invitation at the appropriate time for the Kenyan Government to make

¹ ICC-01/09-01/11-567.

² *Ibid*, para 21.

³ *Ibid*, para 25.

⁴ *Ibid*, para 38.

⁵ *Ibid*, para 24.

representations in response to a request for a change of venue made by the defence in the case of *The Prosecutor v. Francis Kirimi Muthaura and Uhuru Muigai Kenyatta*.⁶

3. On 24 January 2013, the Presidency issued the “Decision on Joint Defence Application for a change of place where the Court shall sit for Trial”.⁷ The Presidency recalled its earlier decision, in which it “emphasized the importance of the Chamber establishing the views of the parties before deciding whether to recommend the Presidency to consult the relevant national authorities.”⁸ The Presidency requests the Chamber to receive observations from the parties, participants, and the Registry, as well as any national authority that the Chamber deems appropriate.
4. The Chamber considers it valuable, for a proper assessment of the interests of justice in the present case, to receive observations: (i) from the Prosecutor, the Legal Representative of the Victims, and the Registry, on the possibility of the trial being held in Kenya or Tanzania, (ii) from the Kenyan authorities on the possibility of the trial being held in Kenya, and (iii) from the Tanzanian authorities and the ICTR on the possibility of the trial being held at the premises of the ICTR in Arusha, Tanzania.

The Chamber hereby requests the Prosecutor, the Legal Representatives of the Victims and the Registry to submit observations on the subject matter referred to in paragraph 4 of the present order, including on questions of logistics and security, no later than 22 February 2013, and **invites** the Kenyan and Tanzanian authorities, and the ICTR to submit observations on these matters by no later than 08 March 2013.

⁶ ICC-01/09-01/11-573-Conf-Anx2.

⁷ ICC-01/09-01/11-568.

⁸ ICC-01/09-02/11-581, para 3.

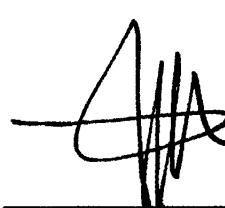
Done in both English and French, the English version being authoritative.



Judge Kuniko Ozaki, Presiding Judge



Judge Christine Van den Wyngaert



Judge Chile Eboe-Osuji

Dated this 01 February 2013

At The Hague, The Netherlands