

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 3 July 2013

TRIAL CHAMBER V(B)

Before: Judge Kuniko Ozaki, Presiding Judge
Judge Robert Fremr
Judge Chile Eboe-Osuji

SITUATION IN THE REPUBLIC OF KENYA

**IN THE CASE OF
*THE PROSECUTOR v. UHURU MUIGAI KENYATTA***

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

Ms Adesola Adeboyejo

Counsel for the Defence

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

Mr Herman von Hebel

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Others

Trial Chamber VB (“Chamber”) of the International Criminal Court (“Court”), in the case of *The Prosecutor v. Uhuru Muigai Kenyatta*, 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 Regulations 43 and 54 of the Regulations of Court, issues this Order requesting submissions on the conduct of the proceedings.

1. On 20 June 2013 the Trial Chamber set 12 November 2013 as the new date for the commencement 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 requests further information and submissions from the parties and participants as set out below.
 - (i) The Office of the Prosecutor (“Prosecution”), the defence team for Mr Kenyatta (“Defence”) and the Common Legal Representative for Victims (“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 commencement date of trial, ICC-01/09-02/11-763-Red.

- (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.³
- (iv) The Defence and Prosecution are requested to indicate whether they would accept that the counts section of the Document Containing the Charges be read to the accused at the commencement of trial for purposes of fulfilling the requirement of Article 64(8)(a) of the Statute.
- (v) The Prosecution, the Defence and the 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.
- (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).

² See Prosecution's provision of materials pursuant to Decision ICC-01/09-02/11-451, 9 January 2013, ICC-01/09-01/11-596, para. 3 and Annex A.

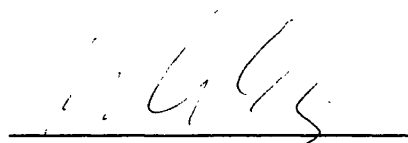
³ ICC-01/09-02/11-596, para. 3.

- (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 Legal Representative are directed to file submissions with their views on:
 - (a) the order, among the parties and participants, and manner in which witnesses should be questioned;
 - (b) the permissible scope of questioning by the parties and participants;
 - (c) the timing and manner in which the 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);
 - (d) the procedure for the use of material during questioning (including advance notification thereof and procedure for objections);
 - (e) the procedure for admission of material tendered through witnesses as evidence in the case (including assignment of evidence numbers);
 - (f) other procedures for admission of other material as evidence in the case (other than through witnesses);

(g) 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 25 July 2013, with the exception of the witness schedule referred to in paragraph 2(ii). This schedule should be filed by 12 September 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 1 October 2013 with responses, if any, to be filed by 10 October 2013.

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



Judge Kuniko Ozaki, Presiding



Judge Robert Fremr



Judge Chile Eboe-Osuji

Dated 3 July 2013

At The Hague, The Netherlands