

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

No.: **ICC-01/09-01/11**  
Date: **27 August 2015**

**TRIAL CHAMBER V(A)**

**Before:** Judge Chile Eboe-Osuji, Presiding Judge  
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**

**Prosecution's certification of review of its case file**

**Source:** Office of the Prosecutor

**Document 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 the Defence**

**For William Samoei Ruto:**

Mr Karim Khan  
Mr David Hooper  
Ms Shyamala Alagendra

**For Joshua Arap Sang:**

Mr Joseph Kipchumba Kigen-Katwa  
Ms Caroline Buisman

**Legal Representatives of the Victims**

Mr Wilfred Nderitu

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(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**

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**Registrar**

Mr Herman von Hebel

**Counsel Support Section**

**Deputy Registrar**

**Victims and Witnesses Unit**

Mr Nigel Verrill

**Detention Section**

**Victims Participation and Reparations  
Section**

**Others**

1. Pursuant to the Trial Chamber's "Decision on Ruto Defence Request for the Appointment of a Disclosure Officer and/or the Imposition of Other Remedies for Disclosure Breaches", the Prosecution hereby certifies that it has now completed a full review of its case file and that, to the best of its knowledge and as of the date of filing, "no disclosable materials remain undisclosed".<sup>1</sup>
2. Although the Prosecution is satisfied that there are no disclosable documents remaining undisclosed at present, as in all complex cases before this Court there may be material that "falls through the cracks", despite the meticulousness of the review process. Additionally, since the assessment of disclosability necessarily involves a value judgment as to the potential relevance of evidence, there is always a margin for differences of opinion. That said, the Prosecution submits that the review process it has undertaken is one that has been specifically designed to ensure *bona fide* disclosure compliance and minimise any potential for error. Any further disclosable material that may be uncovered by subsequent reviews will of course be disclosed forthwith.
3. The Prosecution will continue to review any information and evidence that may be received and or collected in the context of the Kenya situation and disclose as necessary, as part of its ongoing obligations under article 67(2) of the Statute and rule 77 of the Rules and, when appropriate, pursuant to discrete Defence requests. The Prosecution will also re-examine its case file as necessary in accordance with any future decisions, orders and directions of the Trial Chamber, defences disclosed and any other relevant development in the case that may affect the relevance and disclosability of information in the Prosecution's possession and control.




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**Fatou Bensouda, Prosecutor**

Dated this 27<sup>th</sup> day of August 2015

At The Hague, the Netherlands

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<sup>1</sup> ICC-01/09-01/11-1774-Conf, para.59 and p.9. In reviewing each item of evidence for the purpose of determining its materiality, the Prosecution has been guided by the case as it stands to date, taking into account all relevant Trial Chamber's decisions, orders and directions and the Prosecution's present understanding of both Accused's lines of defence.