

Annex A – Procedural History

Essential information about the case

This case traces its origins back to 31 March 2009, when Pre-Trial Chamber II, acting by majority, authorised the Prosecution to start an investigation into the post-election violence of 2007-8. Proceedings against the two accused started on 15 December 2010, when the Prosecution applied for summonses to appear for Mr Ruto, Mr Sang, and Henry Kiprono Kosgey.¹ Following the confirmation process and hearing, the charges against Mr Ruto and Mr Sang were confirmed on the 23rd of January 2012, whereas those against Mr Kosgey were rejected by the Pre-Trial Chamber.

The trial against Messrs Ruto and Sang started on 10 September 2013. Over the course of 157 trial days, the Trial Chamber heard the testimony of 30 witnesses for the Prosecution, including 2 expert witnesses. During that time, the Chamber admitted into evidence 335 exhibits for the Prosecution, 226 exhibits for the Ruto Defence, and 82 exhibits for the Sang Defence. The Prosecution closed its case on 10 September 2015, exactly two years after the opening of the trial. At the close of the Prosecution's case, the evidentiary record contained 92 photographs, 27 maps, 77 items of audio/visual material, and over 8,000 pages worth of documentary evidence. Throughout the trial proceedings, the Trial Chamber, in its different compositions, rendered over 400 written and oral decisions, the most significant of which are listed below.

At the close of the Prosecution case, the Chamber admitted into evidence the prior recorded testimony of five Prosecution witnesses for the truth of their content, but without taking a definitive position on their evidentiary value, on the basis of Rule 68 (as amended by the Assembly of States Parties on 27 November 2013 in Resolution ICC-ASP/12/Res.7). Accordingly, the Prosecution relied on this evidence when the both the Ruto and Sang Defences argued that there was no case for them to answer. However, on 12 February 2016, the Appeals Chamber reversed the Trial Chamber's decision. The current decision is thus rendered on the basis of the evidentiary record as it stood on 10 September 2015, when the Prosecution closed its case, minus the prior recorded testimony of the five witnesses concerned.

¹ ICC-01/09-30

Chronological list of the key procedural moments and decisions

31 March 2009 – Pre-Trial Chamber II: “Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Kenya”, [ICC-01/09-19-Corr](#)

8 March 2011 – Pre-Trial Chamber II: “Decision on the Prosecutor’s Application for Summons to Appear for William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang”, [ICC-01/09-01/11-1](#)

6 April 2011 - Pre-Trial Chamber II: “Decision Setting the Regime for Evidence Disclosure and Other Related Matters”, [ICC-01/09-01/11-44](#)

7 April 2011 – Initial appearance before PTC II – ICC-01/09-01/11-T-1

30 May 2011 – Pre-Trial Chamber II: “Decision on the Application by the Government of Kenya Challenging the Admissibility of the Case Pursuant to Article 19(2)(b) of the Statute”, [ICC-01/09-01/11-101](#)

15 August 2011 – Office of the Prosecutor: “Amended Document Containing the Charges”, [ICC-01/09-01/11-261](#)

30 August 2011 – Appeals Chamber: “Judgment on the appeal of the Republic of Kenya against the decision of Pre-Trial Chamber II of 30 May 2011 entitled ‘Decision on the Application by the Government of Kenya Challenging the Admissibility of the Case Pursuant to Article 19(2)(b) of the Statute’”, [ICC-01/09-01/11-307](#) + “Dissenting Opinion of Judge Anita Usacka”, [ICC-01/09-01/11-336](#)

1-8 September 2011 – Confirmation hearing

23 January 2012 - Pre-Trial Chamber II: “Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute”, [ICC-01/09-01/11-373](#)

9 March 2012 - Pre-Trial Chamber II: “Decision on the Defences’ Applications for Leave to Appeal the Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute”, [ICC-01/09-01/11-399](#) (

29 March 2012 – Presidency: “Decision constituting Trial Chamber V and referring to it the case of The Prosecutor v. William Samoei Ruto and Joshua Arap Sang”, [ICC-01/09-01/11-406](#)

24 May 2012 – Appeals Chamber: “Decision on the appeals of Mr William Samoei Ruto and Mr Joshua Arap Sang against the decision of Pre-Trial Chamber II of 23 January 2012 entitled ‘Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute’”, [ICC-01/09-01/11-414](#)

3 October 2012 – Trial Chamber V: “Decision on victims' representation and participation”, [ICC-01/09-01/11-460](#)

23 November 2012 - Trial Chamber V: “Decision appointing a common legal representative of victims”, [ICC-01/09-01/11-479](#)

28 December 2012 - Trial Chamber V: “Decision on the content of the updated document containing the charges”, [ICC-01/09-01/11-522](#) + Annex [ICC-01/09-01/11-522-Anx](#)

2 January 2013 - Trial Chamber V: “Decision on witness preparation”, [ICC-01/09-01/11-524](#) + Annex [ICC-01/09-01/11-524-Anx](#)

25 January 2013 – Office of the Prosecutor: “Updated Document Containing the Charges”, [ICC-01/09-01/11-533-AnxA-Corr](#)

25 February 2013 – Office of the Prosecutor: “Prosecution’s Updated Pre-Trial Brief”, [ICC-01/09-01/11-625](#)

26 April 2013 – Presidency: “Decision Replacing a Judge in Trial Chamber V”, [ICC-01/09-01/11-706](#)

21 May 2013 – Presidency: “Decision constituting Trial Chamber V(a) and Trial Chamber V(b) and referring to them the cases of The Prosecutor v. William Samoei Ruto and Joshua Arap Sang and The Prosecutor v. Uhuru Muigai Kenyatta”, [ICC-01/09-01/11-745](#)

18 June 2013 - Trial Chamber V(A): “Decision on Mr Ruto’s Request for Excusal from Continuous Presence at Trial”, [ICC-01/09-01/11-777](#) + “Dissenting Opinion of Judge Herrera Carbuca” [ICC-01/09-01/11-777-Anx2](#)

9 August 2013 - Trial Chamber V(A): “Decision on the Conduct of Trial Proceedings (General Directions)”, [ICC-01/09-01/11-847](#)

16 August 2013 - Trial Chamber V(A): “Decision on the ‘Prosecution's Request to Amend the Updated Document Containing the Charges Pursuant to Article 61(9) of the Statute’”, [ICC-01/09-01/11-859](#)

3 September 2013 - Trial Chamber V(A): "Decision No. 2 on the Conduct of Trial Proceedings (General Directions)", [ICC-01/09-01/11-900](#)

10 September 2013 – Opening of the trial hearings (ICC-01/09-01/11-T-27)

24 September 2013 - Trial Chamber V(A): "Decision No. 3 on the Conduct of Proceedings (Public Redacted Versions of Transcripts of Testimonies Heard in Private Session)", [ICC-01/09-01/11-981](#)

25 October 2013 – Appeals Chamber: "Judgment on the Appeal of the Prosecutor against the Decision of Trial Chamber V(a) of 18 June 2013 Entitled 'Decision on Mr Ruto's Request for Excusal from Continuous Presence at Trial'", [ICC-01/09-01/11-1066](#) + "Joint Separate Opinion of Judge Erkki Kourula and Judge Anita Ušacka" [ICC-01/09-01/11-1066-Anx](#)

12 December 2013 - Trial Chamber V(A): "Decision on Applications for Notice of Possibility of Variation of Legal Characterisation", [ICC-01/09-01/11-1122](#) + [Annex A](#)

18 February 2014 – Trial Chamber V(A): "Reasons for the Decision on Excusal from Presence at Trial under Rule 134quater", [ICC-01/09-01/11-1186](#) + "Separate Further Opinion of Judge Eboe-Osuji to the 'Reasons for the Decision on Excusal from Presence at Trial under Rule 134 quater'" [ICC-01/09-01/11-1186-Anx](#)

17 April 2014 - Trial Chamber V(A): "Decision on Prosecutor's Application for Witness Summonses and resulting Request for State Party Cooperation", [ICC-01/09-01/11-1274-Corr2](#)

20 May 2014 - Trial Chamber (A): "Decision No. 4 on the Conduct of Proceedings (Evidence and Solemn Declarations in Support of Applications)", [ICC-01/09-01/11-1312](#)

3 June 2014 - Trial Chamber V(A): "Decision No. 5 on the Conduct of Trial Proceedings (Principles and Procedure on 'No Case to Answer' Motions)", [ICC-01/09-01/11-1334](#) + "Separate Further Opinion of Judge Eboe-Osuji", [ICC-01/09-01/11-1334-Anx-Corr](#)

11 December 2014 - Trial Chamber V(A): "Decision No. 6 on the Conduct of Proceedings (Interim Redacted Transcripts)", [ICC-01/09-01/11-1752](#)

9 October 2014 – Appeals Chamber: "Judgment on the appeals of William Samoei Ruto and Mr Joshua Arap Sang against the decision of Trial Chamber V (A) of 17 April 2014 entitled 'Decision on Prosecutor's Application for Witness Summonses and resulting Request for State Party Cooperation'", [ICC-01/09-01/11-1598](#)

4 June 2015 – Last day of presentation of the Prosecution's case (ICC-01/09-01/11-T-205)

19 August 2015 - Trial Chamber V(A): “Decision on Prosecution Request for Admission of Prior Recorded Testimony”, [ICC-01/09-01/11-1938-Red-Corr](#) + “Separate, Partly Concurring Opinion of Judge Eboe-Osuji on the ‘Decision on Prosecution Request for Admission of Prior Recorded Testimony’”, [ICC-01/09-01/11-1938-Anx-Red](#)”

10 September 2015 – Office of the Prosecutor: “Notification of closure of the Prosecution’s case”, [ICC-01/09-01/11-1954](#)

12 January 2016 – 15 January 2015: Oral Hearing on the Defence ‘No Case to Answer’ Motions, ICC-01/09-01/11-T-209-212

12 February 2016 – Appeals Chamber: Judgment on the appeals of Mr William Samoei Ruto and Mr Joshua Arap Sang against the decision of Trial Chamber V(A) of 19 August 2015 entitled “Decision on Prosecution Request for Admission of Prior Recorded Testimony”, [ICC-01/09-01/11-2024](#)