

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 12 April 2013

TRIAL CHAMBER V

Before: Judge Kuniko Ozaki, Presiding
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***

Confidential

Order concerning disclosure of the identity of Witness P-524

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 Samoei Ruto
Mr Kioko Kilukumi Musau
Mr David Hooper
Mr Karim Khan

Legal Representatives of Victims

Counsel for Joshua Arap Sang
Mr Joseph Kipchumba Kigen-Katwa
Mr Silas Chekera
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

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Deputy Registrar

Victims and Witnesses Unit

Ms Maria-Luisa Martinod-Jacome

Detention Section

**Victims Participation and Reparations
Section**

Others

Trial Chamber V ("Chamber") of the International Criminal Court ("Court"), in the case of *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*, having regard to Articles 64(2), 64(6)(e), 67 and 68(1) of the Rome Statute and Rules 76, 81(2) and 81(4) of the Rules of Procedure and Evidence, issues this Order concerning disclosure of the identity of Witness P-524.

1. On 30 January 2013 the Chamber issued its "Decision on prosecution's 'Urgent request for reconsideration pursuant to Trial Chamber V's Decision on the second and third Prosecution requests for delayed disclosure of witness identities'"¹ in which it granted continued non-disclosure vis-à-vis the defence teams for both accused ("Defence") of the identity of Prosecution Witness P-524 ("Witness 524"), until the Victims and Witnesses Unit ("VWU") has confirmed that the necessary protective measures have been implemented.² The VWU was instructed to inform the Chamber when Witness 524's identity can safely be disclosed.³
2. On 6 March 2013 the Chamber directed the VWU to provide an updated report on the security status of Witness 524 by no later than 13 March 2013.⁴
3. On 13 March 2013 the VWU filed an update on the security situation of Witness 524,⁵ in which it informed the Chamber that for reasons related to the witness's personal situation, the implementation of protective measures would be delayed

¹ ICC-01/09-01/11-578-Conf-Exp. A public redacted version was issued the same day, ICC-01/09-01/11-578-Red.

² ICC-01/09-01/11-578-Red, page 7.

³ ICC-01/09-01/11-578-Red, page 7.

⁴ Decision on the disclosure of the identities of Witnesses 495, 524, 534 and 536, ICC-01/09-01/11-638-Conf-Exp, para.

15. A confidential redacted version was issued the same day, ICC-01/09-01/11-638-Conf-Red.

⁵ Victims and Witnesses Unit's update on the security assessment of witness P-0524, ICC-01/09-01/11-646-Conf-Exp.

by one month.⁶ The VWU stated that it would update the Chamber once the risk to the witness's security had been sufficiently mitigated.⁷

4. Given that it is now 45 days before the start of trial, it is imperative that disclosure of Witness 524's identity to the Defence take place without any further delay. The Chamber requests the VWU and the Prosecution to liaise in order to file an update by 16 April 2013 informing the Chamber whether the risk to the security of Witness 524 is sufficiently mitigated to enable disclosure. If the witness's security situation is not yet stabilized, the joint report to the Chamber must provide a detailed explanation. If the security situation has been stabilized to the extent that Witness 524's identity can be safely disclosed, disclosure should take place immediately and the Chamber is to be informed when this has occurred. In the event that disclosure takes place on or before 16 April 2013, no joint update is necessary.

THE CHAMBER HEREBY

ORDERS the VWU and the Prosecution to liaise in order to jointly file by 16 April 2013 the abovementioned update on the security of Witness 524, unless the Prosecution discloses Witness 524's identity to the Defence on or before 16 April 2013.

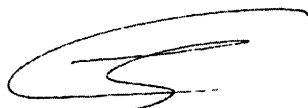
⁶ ICC-01/09-01/11-646-Conf-Exp, para. 5.

⁷ ICC-01/09-01/11-646-Conf-Exp, paras 6 -7.

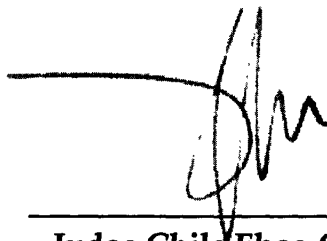
Done in both English and French, the English version being authoritative.



Judge Kuniko Ozaki, Presiding



Judge Christine Van den Wyngaert



Judge Chile Eboe-Osuji

Dated this 12 April 2013

At The Hague, The Netherlands