

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 22 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 on Defence response to Prosecution's submissions regarding screening  
notes**

**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 Karim Khan  
Mr Kioko Kilukumi Musau  
Mr David Hooper

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

**Legal Representatives of Victims**

**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**

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**Registrar**  
Mr Herman von Hebel

**Deputy Registrar**

**Victims and Witnesses Unit**

**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*, pursuant to Regulations 24, 28 and 34 of the Regulations of the Court, issues this Order on Defence response to Prosecution's submissions regarding screening notes.

1. On 2 April 2013, the defence teams for Mr Ruto and Mr Sang (together the "Defence") requested the Chamber to order the Prosecution: (i) to (re)disclose its screening notes in a full, non-redacted format and (ii) in particular, to disclose all the screening notes in its possession relative to Prosecution incriminating witnesses ("Application").<sup>1</sup>
2. On 11 April 2013,<sup>2</sup> the Prosecution responded to the Request by indicating that it had "no objection to providing the Defence with the full original screening notes of trial witnesses (though with limited and strictly necessary redactions)".<sup>3</sup> The Prosecution requested the Chamber to authorise certain ongoing redactions specified in the annex to the 11 April 2013 filing and to authorise the temporary withholding of the identity of non-trial witnesses pending the completion of their individual security assessments.<sup>4</sup>

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<sup>1</sup> Joint Defence Request to Be Provided with Full, Non-Redacted, Screening Notes, ICC-01/09-01/11-666-Conf-Exp, para. 25 (filing notified on 3 April 2013; contains five confidential *ex parte*, Prosecution and Defence only, annexes).

<sup>2</sup> The deadline to respond was moved up to this date. See Email communication from a Legal Officer of Trial Chamber V to the parties at 13:30 on 8 April 2013.

<sup>3</sup> Prosecution Response to Joint Defence Request to Be Provided with Full, Non-Redacted Screening Notes, 11 April 2013, ICC-01/09-01/11-677-Conf, para. 4 (with one confidential *ex parte* annex, modified by a corrigendum filed on 18 April 2013).

<sup>4</sup> ICC-01/09-01/11-677-Conf, para. 23.

3. On 18 April 2013, the Prosecution applied for further redactions to screening notes of trial witnesses which it intended to disclose to the Defence.<sup>5</sup>
4. The Chamber considers both Prosecution filings following the Application to be additional requests to which the Defence is entitled to respond under Regulation 24(1) of the Regulations. Due to the need to resolve all outstanding disclosure issues in this case sufficiently in advance of trial, the Chamber considers it necessary to receive any response to these Prosecution filings on an expedited basis. It would be useful for the Chamber's determination to know whether the Defence maintains its request for the relief sought in the Application in view of the Prosecution's subsequent submissions.

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<sup>5</sup> Prosecution Application for Redactions to Further Screening Notes of Trial Witnesses to Be Disclosed to the Defence, 18 April 2013, ICC-01/09-01/11-688-Conf (with one confidential *ex parte* annex).

**FOR THE FOREGOING REASONS, THE CHAMBER HEREBY**


**ORDERS** the defence teams to file submissions by 29 April 2013:

- i. indicating whether they maintain their request for the relief sought in the Application and
- ii. responding to the Prosecution's submissions on 11 April 2013 (ICC-01/09-01/11-677-Conf) and 18 April 2013 (ICC-01/09-01/11-688-Conf).

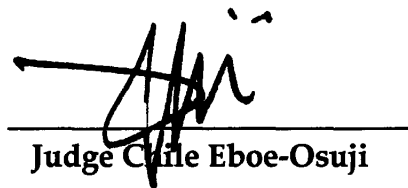
Done in both English and French, the English version being authoritative.



**Judge Kuniko Ozaki, Presiding**



**Judge Christine Van den Wyngaert**



**Judge Chie Eboe-Osuji**

Dated this 22 April 2013

At The Hague, The Netherlands