

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 21 May 2013

THE PRESIDENCY

Before: Judge Sang-Hyun Song, President
Judge Sanji Mmasenono Monageng, First Vice-President
Judge Cuno Tarfusser, Second Vice-President

**SITUATION IN THE REPUBLIC OF KENYA
IN THE CASES OF**

**THE PROSECUTOR
V. WILLIAM SAMOEI RUTO AND JOSHUA ARAP SANG
and
THE PROSECUTOR
V. UHURU MUIGAI KENYATTA**

**Public
With two public annexes**

**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***

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 the Defence

For Mr Uhuru Muigai Kenyatta

Mr Steven Kay QC

Ms Gillian Higgins

For Mr William Samoei Ruto

Mr Karim Khan QC

Mr David Hooper QC

For Mr Joshua Arap Sang

Mr Joseph Kipchumba Kigen-Katwa

Mr Silas Chekera

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Deputy Registrar

Mr Didier Preira

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Trial Chamber V(a)

Trial Chamber V(b)

THE PRESIDENCY of the International Criminal Court (hereinafter “Court”);

NOTING the Decision of the Presidency of 29 March 2012 attaching Judge Kuniko Ozaki to Trial Chamber V and referring to it the case of *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*;¹ and another Decision of the Presidency of the same date also referring to Trial Chamber V the case of *The Prosecutor v. Uhuru Muigai Kenyatta*;²

NOTING the request of Judge Ozaki of 2 May 2013 to be excused, on the ground of workload, from exercising her functions as a judge in the case of *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*, pursuant to article 41 of the Rome Statute (hereinafter “Statute”) and rule 33 of the Rules of Procedure and Evidence (hereinafter “Rules”) and the addendum to that request dated 10 May 2013;³

NOTING today’s decision of the Presidency, excusing Judge Ozaki from the case of *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*;⁴

CONSIDERING that the functions of the Trial Chamber shall normally be carried out by three judges of the Trial Division in accordance with article 39(2)(b)(ii) of the Statute;

CONSIDERING rule 38 of the Rules and regulation 15 of the Regulations of the Court providing for the replacement of judges;

¹ ICC-01/09-01/11-406.

² ICC-01/09-01/11-414.

³ Annex I.

⁴ Annex II.

HEREBY DECIDES the following:

- To dissolve Trial Chamber V;
- To temporarily attach Judge Olga Herrera Carbuccion, currently assigned to the Pre-Trial Division,⁵ to the Trial Division with immediate effect;
- To constitute Trial Chamber V(a) with immediate effect, with the following composition:

Judge Herrera Carbuccion

Judge Fremr

Judge Eboe-Osuji

- To refer the case of *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang* to Trial Chamber V(a), as composed above, with immediate effect.
- To constitute Trial Chamber V(b) with immediate effect, with the following composition:

Judge Ozaki

Judge Fremr

Judge Eboe-Osuji

- To refer the case of *The Prosecutor v. Uhuru Muigai Kenyatta* to Trial Chamber V(b), as composed above, with immediate effect, and as such the judicial

⁵ ICC-CPI-20120315-PR778.

bench in that case shall retain its current composition, as set out in the Decision of the Presidency of 26 April 2013;⁶

ORDERS the Registrar to file and notify this decision to the relevant participants in the case.

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

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above a horizontal line.

Judge Sanji Monageng

Vice-President

Dated this 21 May 2013

At The Hague, Netherlands

⁶ Decision replacing a judge in Trial Chamber V, ICC-01/09-01/11-706 and ICC-01/09-02/11-729.