

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/09-01/11
Date: 20 October 2014

TRIAL CHAMBER V(A)

Before: Judge Chile Eboe-Osuji, Presiding
Judge Olga Herrera Carbuccion
Judge Robert Fremr

SITUATION IN THE REPUBLIC OF KENYA

IN THE CASE OF

***THE PROSECUTOR v. WILLIAM SAMOEI RUTO
AND JOSHUA ARAP SANG***

**Public
with Confidential Annex A**

**Third Joint Submission by the Prosecution and the Defence as to Agreed Facts
in relation to interview dates of certain witnesses**

Source: Office of the Prosecutor
Defence for Mr. William Samoei Ruto
Defence for Mr. Joshua arap Sang

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

Fatou Bensouda, Prosecutor
James Stewart, Deputy Prosecutor
Anton Steynberg, Senior Trial Attorney

Counsel for William Ruto

Karim Khan QC, David Hooper QC
Shyamala Alagendra, Essa Faal and
Leigh Lawrie

Counsel for Joshua Sang

Joseph Kipchumba Kigen-Katwa
Caroline Buisman

Legal Representatives of the Victims

Wilfred Nderitu

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

Office of Public Counsel for Victims

Orchlon Narantsetseg

Office of Public Counsel for Defence

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

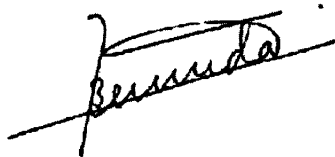
Other

1. During the testimony of witness P-516, the interaction between and the order in which several Prosecution witnesses first met with and subsequently provided statements to the Prosecution became relevant.¹
2. In light of this, and based on the Prosecution's disclosure of its dates of screening and substantive interviews with witnesses P-336, P-495, P-516, P-604 and P-613, the Prosecution, the defence for Mr. William Samoei Ruto and the defence for Mr. Joshua arap Sang (together the "parties") have agreed to the five facts listed in Confidential Annex A ("Agreed Facts"), pursuant to Rule 69 of the Rules of Procedure and Evidence ("Rules").²
3. Annex A is filed on a confidential basis as it refers to the dates of Prosecution interviews with five witnesses, and the Prosecution's general position is that these dates should not be made public.

Requested relief

4. Pursuant to Rule 69 of the Rules, the parties advise that the Agreed Facts are not contested and invite the Trial Chamber to consider them as being proven.

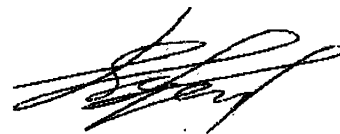
Respectfully submitted,



Fatou Bensouda, Prosecutor



Karim A.A. Khan QC
Lead Counsel for Mr. William Samoei Ruto



Joseph Kipchumba Kigen-Katwa
on behalf of Mr. Joshua arap Sang

¹ ICC-01/09-01/11-T-142-Conf, 23 September 2014, pp. 38, 42-52, 55-69; ICC-01/09-01/11-T-145-Conf, 26 September 2014, pp. 42-45.

² Rule 69 – Agreements as to evidence:

"The Prosecutor and the defence may agree that an alleged fact, which is contained in the charges, the contents of a document, the expected testimony of a witness or other evidence is not contested and, accordingly, a Chamber may consider such alleged fact as being proven, unless the Chamber is of the opinion that a more complete presentation of the alleged facts is required in the interests of justice, in particular the interests of the victims."

**Dated this 20th Day of October 2014
At The Hague, the Netherlands**