

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 31 October 2014

**TRIAL CHAMBER V(A)**

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

**SITUATION IN THE REPUBLIC OF KENYA**

**IN THE CASE OF  
*THE PROSECUTOR v. WILLIAM SAMOEI RUTO and JOSHUA ARAP SANG***

**Public**

**Order admitting into evidence materials related to Witness 637**

**Decision to be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:**

**The Office of the Prosecutor**

Ms Fatou Bensouda  
Mr James Stewart  
Mr Anton Steynberg

**Counsel for William Samoei Ruto**

Mr Karim Khan  
Mr David Hooper  
Mr Essa Faal  
Ms Shyamala Alagendra

**Counsel for Joshua Arap Sang**

Mr Joseph Kipchumba Kigen-Katwa  
Ms Caroline Buisman

**Legal Representatives of Victims**

Mr Wilfred Nderitu

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparation**

**The Office of Public Counsel for Victims**

Ms Paolina Massidda

**The Office of Public Counsel for the**

**Defence**

**States Representatives**

*Amicus Curiae*

**REGISTRY**

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**Registrar**

Mr Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Others**

**Trial Chamber V(A)** (the ‘Chamber’) of the International Criminal Court, in the case of *The Prosecutor v William Samoei Ruto and Joshua Arap Sang*, pursuant to Articles 64(9)(a) and 69(4) of the Rome Statute (the ‘Statute’), renders this Order admitting into evidence material related to Witness 637.

1. On 2 October 2014, during the course of the testimony of Witness 637, the Chamber instructed the Office of the Prosecutor (‘Prosecution’) to tender the materials it used during its examination of Witness 637 by way of a written filing, rather than requesting its admission as evidence and subsequent reading of the evidence number (‘EVD’) into the record during the hearing, as is the usual practice.<sup>1</sup>
2. On 10 October 2014, the Prosecution requested the admission as evidence of 64 items related to Witness 637, namely the witness’s written statement and annexes thereto, a notebook and its translation, as well as transcripts and audio recordings of interviews between the witness and the Prosecution (‘Application’).<sup>2</sup> The Prosecution submits that the admission of all items, except a notebook and its translation is sought for the limited purposes of impeachment.<sup>3</sup>
3. On 15 October 2014, the Defence for Mr Sang (‘Sang Defence’) filed its response, indicating it does not object to the Application.<sup>4</sup>
4. On 20 October 2014, the Defence for Mr Ruto (‘Ruto Defence’) filed its response, indicating it does not oppose the Application.<sup>5</sup>

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<sup>1</sup> ICC-01/09-01/11-T-149-CONF-ENG ET, page 10, lines 6-10.

<sup>2</sup> Prosecution’s request for materials related to witness P-0637 to be accepted into evidence and assigned evidence (EVD) numbers, ICC-01/09-01/11-1599 with Confidential Annex A.

<sup>3</sup> Application, ICC-01/09-01/11-1599, para. 4 and footnote 4.

<sup>4</sup> Sang Defence Response to Prosecution’s Request for Material related to witness P-0637 to be accepted into evidence and assigned evidence (EVD) numbers, ICC-01/09-01/11-1607, para. 3.

<sup>5</sup> Ruto Defence response to the “Prosecution’s request for materials related to witness P-0637 to be accepted into evidence and assigned evidence (EVD) numbers”, ICC-01/09-01/11-1610, para. 1.

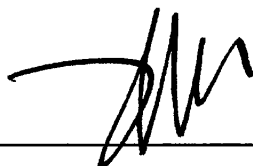
5. The Chamber has taken into consideration that there are no objections from either the Sang Defence or the Ruto Defence to admit these items into evidence. The Chamber also notes that the items were referred to in the course of Witness 636's testimony. The Chamber therefore considers that, for the purposes specified in the Prosecution's request, the items meet the requirements for admission.
  
6. The Chamber therefore admits into evidence the items listed in Annex A of the Application. Accordingly, EVD numbers shall be assigned to the items and put in the record of the case.

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

**GRANTS** the Prosecution Application.

**INSTRUCTS** the Registry to assign the items listed in Annex A of the Application an EVD number and put it in the record of the case via a written filing no later than 14 November 2014.

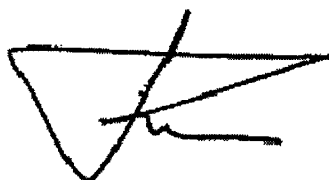
Done in both English and French, the English version being authoritative.



**Judge Chile Eboe-Osuji**  
(Presiding)



**Judge Olga Herrera Carbuccia**



**Judge Robert Fremr**

Dated 31 October 2014

At The Hague, The Netherlands