

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 4 December 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***

Confidential

**Record of an Order on the Defence Request to Inspect the Phone and SIM Card of a
Witness**

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

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 Article 64(10) of the Rome Statute, makes this record of an Order on the Defence Request to Inspect the Phone and SIM Card of a Witness.

1. On 28 October 2014, the Defence for Mr Ruto filed a request to inspect the phone and SIM card of a witness,¹ which was subsequently joined by the Defence for Mr Sang on 6 November 2014.²
2. On 6 November 2014, the Office of the Prosecutor (the 'Prosecution') filed its response³ and the Victims and Witnesses Unit (the 'VWU') filed their observations on the matter.⁴
3. On 11 November 2014, by way of e-mail, the Chamber directed the VWU to inform the witness of the request and ascertain whether he consented to his phone being handed over to the Defence, along with its PIN code.⁵ If not, the VWU was instructed to ask the witness whether he would consent to his phone being handed over directly to the Prosecution, for purposes of an inspection and resulting report to be disclosed to the Defence. The Chamber also directed that the witness was to be informed that he was not obligated to agree to either proposal.
4. On 13 November 2014, the VWU informed the Chamber that the witness had agreed that his phone and SIM card be handed over to the Prosecution for the purposes of inspection and report to be disclosed to the Defence.⁶
5. Accordingly, on that same date, the Chamber issued directions via e-mail,⁷ which it now sets on the record in Annex A to this filing.

¹ ICC-01/09-01/11-1621-Conf-Exp+Anxs and Conf-Red.

² ICC-01/09-01/11-1633-Conf.

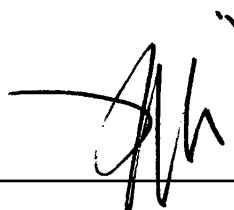
³ ICC-01/09-01/11-1635-Conf.

⁴ ICC-01/09-01/11-1636-Conf.

⁵ Email of Trial Chamber V(A) Communications to the parties and VWU, at 17:30.

⁶ Email from VWU to Trial Chamber V(A) Communications on 11 November 2014, at 11:40.


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



Judge Chile Eboe-Osuji
(Presiding)



Judge Olga Herrera Carbuccion



Judge Robert Fremr

Dated 4 December 2014

At The Hague, The Netherlands

⁷ Email of Trial Chamber V(A) Communications to the parties and VWU, at 14:56.