

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 11 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**

**with three confidential annexes**

**Order on Consultations with the Kingdom of the Netherlands**

**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**

Government of the Kingdom of the  
Netherlands

*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(6)(f) and 64(10) of the Rome Statute, renders this Order on Consultations with the Kingdom of the Netherlands.

1. On 27 November 2014, the defence for Mr Ruto (the 'Ruto Defence') submitted the 'Ruto Defence Request for Consultation with the Dutch Authorities pursuant to Articles 93(3) and 97' (the 'Request').<sup>1</sup>
2. On that same date, the Chamber, via e-mail, directed the Registry to immediately transmit the Request to the relevant authorities of the Kingdom of the Netherlands (the 'Dutch Authorities') and invited them to file written observations and attend a hearing on Tuesday, 2 December 2014 at 14:30.<sup>2</sup> The Chamber now sets on the record this direction in Annex A to this filing.
3. On 28 November 2014, the defence for Mr Sang (the 'Sang Defence') made an application to join the Request.<sup>3</sup>
4. On that same date, the Prosecution filed its observations on the Request.<sup>4</sup>
5. On 2 December 2014, the Chamber received the observations from the Dutch Authorities to the Request.<sup>5</sup>
6. On that same date, the Chamber held a hearing in which the representatives of the Dutch Authorities and the parties made oral submissions on the Request.<sup>6</sup>

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<sup>1</sup> ICC-01/09-01/11-1711-Conf.

<sup>2</sup> E-mail from Trial Chamber V(A) Communications to counsel and the Registry at 13:24.

<sup>3</sup> Sang Defence Application to join the "Ruto Defence Request for Consultation with the Dutch Authorities pursuant to Articles 93(3) and 97", ICC-01/09-01/11-1711-Conf, 27 November 2014, ICC-01/09-01/11-1717-Conf.

<sup>4</sup> Prosecution's Response to Ruto Defence Request for Consultation with the Dutch Authorities pursuant to Articles 93(3) and 97, ICC-01/09-01/11-1711-Conf, ICC-01/09-01/11-1719-Conf.

<sup>5</sup> Registry transmission of observations received from the Kingdom of the Netherlands following document ICC-01/09-01/11-1711-Conf, ICC-01/09-01/11-1726-Conf, with two confidential annexes..

7. On 3 December 2014, the Dutch Authorities submitted their additional observations to the Request.<sup>7</sup>
8. On 5 December 2014, the Chamber heard further oral submissions from the parties in relation to the Request.<sup>8</sup>
9. On that same date, the Chamber, via e-mail, rendered further directions on the consultation with the Dutch Authorities.<sup>9</sup> The Chamber now sets on the record these directions in Annex B to this filing.
10. On 10 December 2014, the Prosecution transmitted to the Chamber, via e-mail, the response received from the Dutch Authorities.<sup>10</sup> The Chamber now sets on the record this response in Annex C to this filing. The Dutch Authorities request the complete version of the Chamber's directions, as well as the transcripts of the hearings of 2 and 5 December 2014, in order to 'be able to consider further consultations' related to the Request.

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

**DIRECTS** the Registry to prepare redacted versions of the transcripts of 2 and 5 December 2014, containing the relevant parts of the discussions related to the Request, and notify these to the Dutch Authorities;

**INVITES** the Dutch Authorities to respond to the Chamber's directions of 5 December 2014 no later than 12:00 on Thursday, 18 December 2014.

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<sup>6</sup> ICC-01/09-01/11-T-165-CONF-ENG ET.


<sup>7</sup> Registry transmission of additional observations received from the Kingdom of the Netherlands following the hearing on 2 December 2014, ICC-01/09-01/11-1737-Conf (notified on 4 December 2014).

<sup>8</sup> ICC-01/09-01/11-T-168-CONF-ENG ET.

<sup>9</sup> E-mail from Trial Chamber V-A Communications to the Prosecution at 19:32.

<sup>10</sup> E-mail from the Prosecution to Trial Chamber V-A Communications at 14:44.

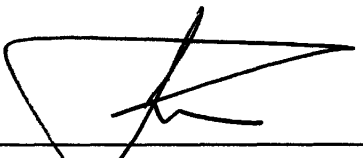
Done in both English and French, the English version being authoritative.



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



**Judge Olga Herrera Carbuccion**



**Judge Robert Fremr**

Dated 11 December 2014

At The Hague, The Netherlands