

Situation in the Republic of Kenya

The Prosecutor v. Uhuru Muigai Kenyatta

ICC-01/09-02/11

ICC-PIDS-Q&A-KEN-02-01/14_Eng

Updated: 19 September 2014



WHAT DID THE CHAMBER DECIDE TODAY IN THE KENYATTA CASE?

On 19 September 2014, Trial Chamber V(b) of the International Criminal Court (ICC) vacated the trial commencement date in the case *The Prosecutor v. Uhuru Muigai Kenyatta*, which had been provisionally scheduled for 7 October 2014.

The Chamber also convened two public status conferences for 7 and 8 October 2014 at 10:00 (The Hague local time), to discuss the status of cooperation between the Prosecution and the Kenyan Government and issues raised in the [Prosecution's Notice](#) of 5 September 2014.

A Representative of the Kenyan Government is invited to attend the first status conference and Mr Kenyatta is required to be present at the second status conference. Both hearings will be held in the presence of the Prosecution, the Defence and the Legal Representatives of Victims.

WHY WAS THE TRIAL DATE VACATED?

The Chamber vacated the trial date of 7 October in the Kenyatta case to have more time to consider a number of requests by the parties and participants to the trial prior to its opening, without prejudice to its ruling regarding those requests.

The Prosecution has sought the adjournment of the case, pending full compliance by the Kenyan Government with an outstanding cooperation request. The Defence has requested that the case be terminated. Status conferences have been convened on 7 and 8 October 2014, to discuss the status of cooperation and the pending requests.

Having heard further submissions at the status conferences, the Chamber will rule in due course on those requests, in an independent and impartial manner.

The Chamber's decision was made with due regard to the requirements of article 64(2) of the Rome Statute, which states that the Trial Chamber shall ensure that a trial is fair and expeditious and is conducted with full respect for the rights of the accused and due regard for the protection of victims and witnesses.

WHAT IS THE NEW PROVISIONAL DATE OR IS IT INDEFINITE?

The Chamber did not set a new provisional date for the trial as it will first need to address the pending requests by parties and participants to the trial.

DOES TODAY'S DECISION MEAN THAT THE GOVERNMENT OF KENYA IS NOT COOPERATING WITH THE ICC?

As a State Party to the Rome Statute, Kenya has the obligation to cooperate with the ICC. In March 2014 in the Kenyatta case, Trial Chamber V(b) deferred making a finding of non-cooperation to provide a further opportunity for the Kenyan Government to comply with its obligations.

It is ultimately up to the ICC Judges to determine whether the government is complying with its obligations or not. If the Chamber finds that there is non-compliance, it may refer the matter to the Assembly of States Parties to adopt any appropriate measures.

WHAT DOES THIS DECISION MEAN FOR THE VICTIMS OF THE CASE?

The decision to vacate the trial date has been made in order to consider the pending requests from the Prosecution and Defence, and is without prejudice to the Chamber's position on them.

Nonetheless, given the importance of the issues to be considered, and their impact on the interests of victims, the Chamber has permitted the Legal Representative of Victims to be present at the two scheduled status conferences in order to make further submissions.

WHY DOES THE ACCUSED HAVE TO BE PRESENT AT THE 8 OCTOBER STATUS CONFERENCE?

While true that Mr Kenyatta has not been required to be present at recent status conferences, given the critical juncture of the proceedings and the matters to be considered, the Chamber deems that his presence is necessary.

Pursuant to the terms of his summons Mr Kenyatta must attend all hearings at the Court for which the Chamber requires his presence.