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No.: ICC-01/09-02/11

Date: 3 July 2012

TRIAL CHAMBER V

Before: Judge Kuniko Ozaki, Presiding Judge
Judge Christine Van den Wyngaert
Judge Chile Eboe-Osuji

**SITUATION IN THE REPUBLIC OF KENYA
IN THE CASE OF
*THE PROSECUTOR v. FRANCIS KIRIMI MUTHAURA AND
UHURU MUIGAI KENYATTA***

Public Document

**Registry submissions related to the redactions regime proposal raised by the
prosecution during the Status Conference held on 12 June 2012**

Source: Registrar

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

The Office of the Prosecutor

Fatou Bensouda

Counsel for the Defence of Mr Muthaura

Karim A.A. Khan QC, Essa M. Faal, Kennedy Ogetto and Shyamala Alagendra

Counsel for the Defence of Mr Kenyatta

Steven Kay and Gillian Higgins

Legal Representatives of the Victims

Morris Anyah

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Silvana Arbia

Deputy Registrar

Didier Preira

Victims and Witnesses Unit

Counsel Support Section

Detention Section

**Victims Participation and Reparations
Section**

Other

The Registrar of the International Criminal Court (the "Court");

NOTING that on 28 May 2012 the prosecution filed its “Submissions on the Agenda for Status Conference” proposing a system for dealing with future redactions for all material to be disclosed (“prosecution’s proposal”)¹;

NOTING that the prosecution’s proposal was discussed during the Status Conference held on 12 June 2012²;

NOTING that during the Status Conference Trial Chamber V ordered that Registry and parties liaise in order to find a middle ground or compromise on the redaction proposal and file submissions for the Chamber’s review by 3 July 2012³;

NOTING Rules 13(1), 15, 81 and 82 of the Rules of Procedure and Evidence (“RPE”), and Regulation 94(g) of the Regulations of the Registry (“RoR”);

CONSIDERING that the Ecourt User Group (hereinafter “ECUG”) technical sub-group met to discuss the technical feasibility of the prosecution’s proposal;

CONSIDERING that the ECUG members tested the methodology of applying redactions both using Ringtail and a new software called Nitro Pro;

TRANSMITS respectfully to the Chamber the following observations;

¹ ICC-01/09-02/11-428 paragraphs 19 to 23

² ICC-01/09-02/11-T-18 pages 27 to 29

³ ICC-01/09-02/11-T-18 pages 29 lines 12 to 16

I. Feasibility of the prosecution proposal

1. The Registry understands that the prosecution proposal consists in applying redactions to categories of information identified by the Chamber. Therefore if some information in the material to be disclosed falls within one of these categories then the information will automatically be redacted by a party.
2. The ECUG has assessed the feasibility, on the technical level, of implementing the prosecution's proposal.
3. Material disclosed consists of evidence uploaded in Ringtail and/or documents submitted for registration. Different software is used for each of the two categories, which implies that the redaction of material has to be performed in two different ways.
 - a) Redaction of Evidence in Ringtail
4. The prosecution uses Ringtail to create and retain redaction information on evidence. Ringtail fully supports the prosecution's requirements for redactions, and will support the implementation of court wide redaction categories.
5. The implementation of redaction categories as described in the prosecution's proposal is feasible for immediate implementation in Ringtail, and can be applied in the evidence disclosure processes and in the annexing of redacted evidence in filings.
6. The Registry therefore confirms that it can technically support the prosecution proposal for this category of material to be redacted.

b) Redaction of filings

7. For the purposes of redacting documents submitted for registration, the Registry acquired new software called Nitro Pro. This tool supports the use of redaction categories suggested by the prosecution. Furthermore, this software allows redacting documents in PDF version in a safe manner. The redaction method described prevents unauthorized disclosures through revision metadata, hidden text and redaction made by highlights in black.

II. Recommendations

8. The Registry is of the view that, for the time being, the procedure of using redactions categories is, at least from the technical point of view, feasible and may be adopted for redaction of evidence and documents.
9. The ECUG has had discussions as to the definition of the redaction categories as proposed by the prosecution. At this stage, the ECUG has not reached a consensus, and therefore can make no recommendation in this regard.
10. Considering that the test of the redaction procedure is still in its early stages the Registry wishes to suggest to the parties and participants the following way of proceeding:
 - All submitters should use either Ringtail or Nitro Pro for the implementation of redactions of evidence and/or filings;
 - All submitters should use Ringtail or Nitro Pro for redactions of evidence annexed to court filings ;



Marc Dubuisson, Director of the Division of Court Services
per delegation of
Silvana Arbia, Registrar

Dated this 3 July 2012

At The Hague, The Netherlands