

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No.: ICC-01/09-02/11
Date: 21 September 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,
with Confidential Annex 1**

Prosecution's Communication of the Disclosure of Incriminating Evidence

Source: Office of the Prosecutor

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

The Office of the Prosecutor

Fatou Bensouda
Adesola Adeboyejo

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Karim A. Khan QC
Essa Faal

Counsel for Uhuru Muigai Kenyatta

Steven Kay QC
Gillian Higgins

Legal Representatives of Victims

Morris Anyah

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
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
Didier Preira, Deputy-Registrar

Victims and Witnesses Unit

Defence Support Section

Detention Section

**Victims Participation and Reparations
Section**

Other

1. In order to keep Trial Chamber V ("Chamber") informed of the disclosure of incriminating evidence, and in compliance with the Chamber's order¹ to provide it with access to these materials, the Prosecution submits its communication of the disclosure of incriminatory evidence to the Defence.
2. On 18 September 2012, 13 items were disclosed² as incriminatory evidence. Discrete redactions have been applied to a number of meta-data fields to protect the identity of investigators of the Office of the Prosecutor who regularly travel to the field, in accordance with the jurisprudence of Pre-Trial Chamber II, which allowed such redactions pursuant to Rule 81(2) of the Rules of Procedure and Evidence ("Rules").³ Equally, discrete redactions have been applied to protect the identity of Prosecution witnesses and sources pursuant to Rule 81(4) of the Rules.



Fatou Bensouda,
Prosecutor

Dated this 21st day of September 2012

At The Hague, The Netherlands

¹ ICC-01/09-02/11-T-18-ENG, p. 59, lines 24 -25. The disclosed items will be provided to the Registry for upload in the eCourt Ringtail database.

² The list of disclosed items is attached as Confidential Annex 1.

³ ICC-01/09-02/11-165-Conf-Red, paras. 64-67. *See also* ICC-01/09-02/11-165-Conf-Exp-Anx2.