



Original: English

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

Date: 2 October 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. WILLIAM SAMOEI RUTO and JOSHUA ARAP SANG***

**Public,
With Confidential Annex A**

**Prosecution's Communication of the Disclosure of Potentially Exculpatory
Evidence pursuant to Article 67(2) and Rule 77 Materials to the Defence**

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

Cynthia Tai

Counsel for the Defence

For William Samoei Ruto:

David Hooper

Kioko Kilukumi Musau

For Joshua Arap Sang:

Joseph Kipchumba Kigen-Katwa

Joel Kimutai Bosek

Legal Representatives of Victims

Sureta Chana

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

Defence Support Section

Victims and Witnesses Unit

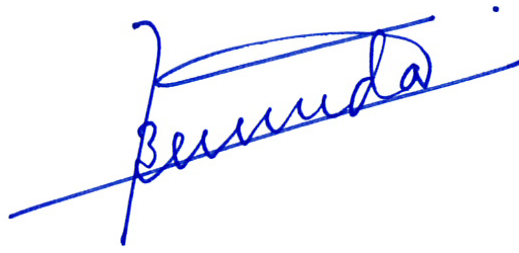
Detention Section

**Victims Participation and Reparations
Section**

Other

1. In keeping with prior practice to keep the Chamber informed of the execution of its disclosure obligations, the Prosecution herewith submits its communication of disclosure to the Defence of materials pursuant to Article 67(2) and Rule 77.
2. The Prosecution disclosed a number of materials to the Defence teams for Mr Ruto and Mr Sang on 19 September 2012. Annex A contains a list of the disclosed materials setting out *inter alia* the disclosure category, the recipient/s, any applicable redactions and the level of confidentiality of each item. Due to the confidential nature of some of the materials disclosed, Annex A is classified as confidential.
3. As agreed in advance with the Defence, discrete Rule 81(2) redactions have been applied to a limited number of chain of custody metadata fields, where necessary to not reveal the identity of OTP investigators that regularly travel to the field. Additionally, for the purpose of expediting disclosure of materials to the Defence, discrete Rule 81(4) redactions have been applied to the content of a limited number of documents in order to protect the personal information of innocent third parties. The Prosecution notes the Chamber's recent 'Decision on the protocol establishing a redaction regime'¹ and will ensure that this disclosure complies with the regime set out therein (whether through effecting re-disclosure to identify the pre-approved categories and/or submitting an application for Non-Standard Justifications) as soon as possible.

¹ ICC-01/09-01/11-458.



Fatou Bensouda

Prosecutor

Dated this 2nd day of October 2012

At The Hague, The Netherlands