

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/09-02/11
Date: 13 December 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 Annexes A and B**

Prosecution's Communication of the Disclosure of 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

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Counsel for Uhuru Muigai Kenyatta

Steven Kay QC and Gillian Higgins

Legal Representatives of Victims

Fergal Gaynor

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

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Silvana Arbia
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Victims and Witnesses Unit

Defence Support Section

Detention Section

**Victims Participation and Reparations
Section**

Other

1. On 27 September 2012, Trial Chamber V (“the Chamber”) issued its “Decision on the protocol establishing a redaction regime” (“Redactions Protocol”)¹ which directs the disclosing party to disclose to the receiving party the relevant material in redacted form simultaneous with a redaction application.² The Chamber confirmed this procedure in its 26 November 2012 “Order regarding redactions” (“Order”).³
2. On 7 December 2012, the Prosecution submitted its “Second Prosecution application for delayed disclosure of witness identities and application for variation of the 5 November 2012 deadline with respect to Witness 334”.⁴
3. In accordance with the Chamber’s Order, as well as the Redactions Protocol, the Prosecution herewith submits to the Chamber its communication of the disclosure of incriminatory evidence pursuant to Articles 61(3)(b), 64(3)(c) and 67(1)(a) and (b) of the Rome Statute.
4. On 7 December 2012, the Prosecution disclosed a total of 64 items, listed in Confidential Annex A. Annex B confirms their receipt by the Defence. Of these, 53 items bear redactions in the content and the metadata fields and 11 items bear redactions in the metadata fields only. Apart from redactions to witness identities, the only “non-standard” redactions are those to investigators’ names and identifying information. In this regard, the Prosecution respectfully refers the Chamber to the 6 December 2012 “application to vary the ‘Decision on the protocol establishing a redaction regime, ICC-01/09-02/11-495’ to allow redaction of investigators’ names

¹ ICC-01/09-02/11-495.

² ICC-01/09-02/11-495-AnxA-Corr, paras 7-8.

³ ICC-01/09-02/11-541.

⁴ ICC-01/09-02/11-562-Red2.

from relevant material and to allow consideration of this Application without requiring provision of redacted copies of that material to the Defence”.⁵



Fatou Bensouda,
Prosecutor

Dated this 13th day of December 2012
At The Hague, The Netherlands

⁵ ICC-01/09-02/11-558.