



Original: English

No.: ICC-01/09-02/11
Date: 21 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, *ex parte*, Prosecution and VWU Only Annexes A, B and C**

**First provision of additional information relating to the
Prosecution's second application for delayed disclosure of witness identities
(ICC-01/09-02/11-562)**

Source: The 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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Other

1. On 7 December 2012, the Prosecution filed 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” (“Application”),¹ in which the Prosecution applied for delayed disclosure of the identities of seven witnesses, including Witnesses 493, 494, and 510.² The Prosecution explained that the interview transcripts for certain witnesses covered by the Application were being transcribed, and would be filed and disclosed as soon as completed.³ The Prosecution also undertook to file and disclose draft versions of the relevant transcripts, as and when completed, to assist the Chamber in considering the Application, and the Defence in its preparation for trial.⁴
2. The Prosecution hereby submits the final interview transcript for Witness 493, and draft interview transcripts for Witnesses 494 and 510, which are attached as Annexes A, B and C, respectively. The annexes are designated confidential, *ex parte* because they contain “see through” redactions to assist the Chamber, and providing the same to the Defence would defeat the relief sought in the Application.
3. With the provision of Witness 493’s final interview transcript, the Application is complete with respect to this witness. The Prosecution respectfully requests the Chamber to consider Witness 493’s transcript (included in Annex A), along with the other materials included in Annex E to the Application,⁵ when ruling upon the Prosecution’s request for the delayed disclosure of his identity.⁶ The transcripts for Witnesses 494 and 510

¹ ICC-01/09-02/11-562-Conf-Exp. Confidential and public redacted versions of the Application were filed on 10 December 2012. See ICC-01/09-02/11-562-Red and ICC-01/09-02/11-562-Red2.

² ICC-01/09-02/11-562-Conf-Exp-AnxE, ICC-01/09-02/11-562-Conf-Exp-AnxF and ICC-01/09-02/11-562-Conf-Exp-AnxI.

³ ICC-01/09-02/11-562-Red2, paras 6-7.

⁴ ICC-01/09-02/11-562-Red2, paras 6-7.

⁵ ICC-01/09-02/11-562-Conf-Exp-AnxE.

⁶ ICC-01/09-02/11-562-Conf-Exp-AnxE.

are in draft form and are subject to review to minimize any transcription inaccuracies. As soon as that process is complete, the Prosecution will file the final version of each transcript, together with the proposed redactions, and disclose the same to the Defence. The draft versions filed and disclosed today are interim products designed to assist the Defence in its preparations and the Chamber's consideration of the Application.



Fatou Bensouda,
Prosecutor

Dated this 21st day of December, 2012
At The Hague, The Netherlands