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

Date: 2 January 2013

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 A

Prosecution's Communication of the Disclosure of Evidence

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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Victims and Witnesses Unit

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**Victims Participation and Reparations
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Other

1. On 21 December 2012, the Prosecution filed its “First provision of additional information relating to the Prosecution’s second application for delayed disclosure of witness identities (ICC-01/09-02/11-562)” (“First Provision of Additional Information”). In the filing, the Prosecution submitted final transcripts for Witness 493 as well as draft interview transcripts for Witnesses 494 and 510 to Trial Chamber V (“Chamber”)¹ to assist it in considering the “Second Prosecution application for delayed disclosure of witness identities and application for variation of the 5 November 2012 deadline with respect to Witness 334” (“Second Delayed Disclosure Application”).² On the same day, the Prosecution disclosed these transcripts and draft transcripts to the Defence.
2. In accordance with the Chamber’s 26 November 2012 “Order regarding redactions”³ and its “Decision on the protocol establishing a redaction regime”,⁴ the Prosecution submits its communication of disclosure of these items as incriminatory evidence pursuant to Articles 61(3)(b), 64(3)(c) and 67(1)(a) and (b) of the Rome Statute.
3. The Prosecution disclosed to the Defence a total of 34 items, listed in Confidential Annex A. These include 20 draft transcripts from the interviews with Witnesses 494 and 510 as well as 14 final transcripts from the interview with Witness 493.
4. All 34 items contain redactions both in their metadata fields and in their content. Apart from the redactions related to witness identity for witnesses for whom delayed disclosure has been sought, the only “non-standard” redactions are those to investigators’ names and identifying information, the

¹ ICC-01/09-02/11-582.

² 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.

³ ICC-01/09-02/11-541.

⁴ ICC-01/09-02/11-495- AnxA-Corr, paras 12-13.

temporary redaction of which was authorized in the Chamber's "Decision on prosecution application to vary the Redaction Protocol and to redact investigators' identifying information".⁵



Fatou Bensouda,
Prosecutor

Dated this 2nd day of January, 2013
At The Hague, The Netherlands

⁵ ICC-01/09-02/11-579, paras 17-18.