

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 28 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: 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

Counsel for Francis Kirimi Muthaura

Karim A. Khan QC, Essa Faal, Kennedy
Ogetto and Shyamala Alagendra

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

Registrar

Silvana Arbia
Didier Preira, Deputy-Registrar
Victims and Witnesses Unit

Defence Support Section

Detention Section

**Victims Participation and Reparations
Section**

Other

1. On 21 December 2012, the Prosecution disclosed to the Defence draft interview transcripts for Witnesses 494 and 510.¹
2. On 11 January 2012, the Prosecution indicated in its "Second provision of additional information relating to the Prosecution's second application for delayed disclosure of witness identities (ICC-01/09-02/11-562)" that, for logistical reasons, the final interview transcripts for Witnesses 494 and 510 were not yet completed and it anticipated that these transcripts would be available, respectively, on or before 15 February 2013 and on or before 25 January 2013.²
3. The Prosecution hereby informs the Chamber that, on 25 January 2013, final versions of the above-mentioned transcripts have been disclosed to the Defence and files its communication of disclosure of this incriminatory evidence pursuant to Articles 61(3)(b), 64(3)(c) and 67(1)(a) and (b) of the Rome Statute and in accordance with the Chamber's 26 November 2012 "Order regarding redactions"³ and its "Decision on the protocol establishing a redaction regime" ("Redaction regime").⁴
4. The Prosecution has disclosed to the Defence a total of 20 items, listed in Confidential Annex A.

¹ ICC-01/09-02/11-587

² ICC-01/09-02/11-599-Conf-Red

³ ICC-01/09-02/11-541.

⁴ ICC-01/09-02/11-495-AnxA-Corr.

5. The final transcripts contain redactions to both metadata and content in accordance with the Chamber's Redaction regime and the Chamber's "Decision on second Prosecution application for delayed disclosure of witness identities".⁵



Fatou Bensouda,
Prosecutor

Dated this 28th day of January 2013
At The Hague, The Netherlands

⁵ ICC-01/09-02/11-593-Conf-Red.