

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 31 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, *ex parte*, Prosecution and VWU only Annexes A and B**

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

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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Defence Support Section

Detention Section

**Victims Participation and Reparations
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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 505 and 506.² 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. On 8 January 2013, the Chamber rendered the “Decision on second Prosecution application for delayed disclosure of witness identities”, authorising the Prosecution to temporarily withhold from disclosure to the Defence the identities of Witnesses 505 and 506, *inter alia*, beyond 9 January 2013, pending the VWU’s assessment of these witnesses.⁵
3. On 11 January 2013, the Prosecution submitted draft interview transcripts for Witnesses 505 and 506 together with its “Second provision of additional information relating to the Prosecution’s second application for delayed disclosure of witness

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-AnxG and ICC-01/09-02/11-562-Conf-Exp-AnxH.

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

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

⁵ ICC-01/09-02/11-593-Conf-Exp. Confidential redacted version of the decision was issued on 9 January 2013, see ICC-01/09-02/11-593-Conf-Red.

identities (ICC-01/09-02/11-599-Conf)”.⁶ The Prosecution indicated in its filing that the final version of the transcripts for Witness 506 would be available on 15 February 2013.⁷

4. Furthermore, on 25 January 2013, the Prosecution informed the Chamber that the final interview transcripts of Witness 505, which were not yet complete, would be filed and disclosed before 31 January 2013.⁸
5. The Prosecution hereby submits the final interview transcripts for Witnesses 505 and 506, which are attached as Annexes A and B, 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.
6. The Prosecution further informs the TC that the changes in the final transcripts, in comparison with the drafts transcripts, are due to transcription inaccuracies and the transcriptions of portions of Swahili, which were not present in the draft transcripts. As a result of these modifications, the Prosecution has applied additional redactions to the transcripts. In this regard, the Prosecution refers the Chamber to the redaction charts and final interview transcripts in Annexes A and B.

⁶ ICC-01/09-02/11-599-Conf.

⁷ ICC-01/09-02/11-599-Conf, para 4.

⁸ ICC-01/09-02/11-609-Conf, para 8.

7. With the provision of Witnesses 505 and 506's final interview transcripts, the Application is complete.



Fatou Bensouda,
Prosecutor

Dated this 31st day of January 2013
At The Hague, The Netherlands