

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 6 February 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
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Counsel for Francis Kirimi Muthaura

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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

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Defence Support Section

Victims and Witnesses Unit

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**Victims Participation and Reparations
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Other

1. On 11 January 2013, the Prosecution disclosed to the Defence draft interview transcripts for Witnesses 505 and 506.¹ On the same date, 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 the final version of the transcript for Witness 506 would be available on 15 February 2013.²
2. On 25 January 2013, the Prosecution informed the Chamber that the final interview transcript of Witness 505, which was not yet complete, would be disclosed before 31 January 2013.³
3. The Prosecution hereby informs the Chamber that on 31 January 2013, final versions of the above-mentioned transcripts were 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”⁴ and its “Decision on the protocol establishing a redaction regime” (“Redaction regime”).⁵
4. The Prosecution has disclosed to the Defence a total of 25 items, listed in Confidential Annex A. The final transcripts contain redactions to both metadata and content in accordance with the Chamber’s Redaction regime and the Chamber’s

¹ ICC-01/09-02/11-604.

² ICC-01/09-02/11-599-Conf, para 4.

³ ICC-01/09-02/11-609-Conf, para 8.

⁴ ICC-01/09-02/11-541.

⁵ ICC-01/09-02/11-495-AnxA-Corr.

“Decision on second Prosecution application for delayed disclosure of witness identities”.⁶



Fatou Bensouda,
Prosecutor

Dated this 6th day of February 2013
At The Hague, The Netherlands

⁶ ICC-01/09-02/11-593-Conf-Red.