

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No: ICC-01/09-02/11

Date: 27 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**

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**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**

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**Registrar**

Silvana Arbia  
Didier Preira, Deputy-Registrar

**Defence Support Section**

**Victims and Witnesses Unit**

Maria Luisa Martinod-Jacome

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

1. The Prosecution submits its communication of the disclosure of incriminatory evidence pursuant to Articles 61(3)(b), 64(3)(c) and 67(1)(a) and (b) of the Rome Statute and notifies the Chamber of the disclosure of material falling within Rule 77 of the Rules of Procedure and Evidence.
2. On 22 and 25 February 2013, the Prosecution disclosed to the Defence a total of 20 items, listed in Confidential Annex A. Of these, 11 items are related to expert Hervé Maupeu (Witness 464), which the Prosecution received after the 14 February 2013 deadline for the disclosure of expert reports.<sup>1</sup> In addition, the Prosecution disclosed five items collected after the 9 January 2013 disclosure deadline,<sup>2</sup> including four items related to Witness 232.<sup>3</sup> The Prosecution also re-disclosed three items for the purpose of correcting minor errors of a technical nature and, finally, the Prosecution disclosed the transcript of a video which had been disclosed to the Defence.<sup>4</sup>

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<sup>1</sup> ICC-01/09-02/11-451, para. 22. The Prosecution also notes that one of these items, the Curriculum Vitae of Witness 464, was collected by the Prosecution earlier and was made available to the Defence on 30 November 2012 through the filing of "Prosecution's second report on joint instruction of experts" (*see* ICC-01/09-02/11-549-Conf-AnxA). The Prosecution formally disclosed the document on 22 February 2013.

<sup>2</sup> ICC-01/09-02/11-451, para. 19.

<sup>3</sup> These are the outstanding items, to which the Prosecution referred during the 14 February 2013 status conference. *See* ICC-01/09-02/11-T-22-ENG, page 8, lines 9-11.

<sup>4</sup> The video was disclosed to the Defence on 3 September 2012.



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Fatou Bensouda,  
Prosecutor

Dated this 27<sup>th</sup> of February 2013  
At The Hague, The Netherlands