

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No: ICC-01/09-02/11

Date: 13 March 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

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 ("Rules").
2. On 8 and 11 March 2013,¹ the Prosecution disclosed a total of 18 items, listed in Confidential Annex A. The Prosecution disclosed to the Defence the identity of one witness for whom delayed disclosure had been authorised by the Chamber – namely Witness 428² – and re-disclosed the relevant witness material without redactions previously applied to the identity of this witness under Category B.1.³
3. The Prosecution also disclosed two newly registered items as material falling under Rule 77 of the Rules: one item shown to Witness 219 during his interview with the Prosecution, and one open source document previously transmitted to the Trial Chamber by the Registry.⁴



Fatou Bensouda,
Prosecutor

Dated this 13th of March 2013
At The Hague, The Netherlands

¹ Disclosure took place on 8 March for the Defence of Mr Muthaura and 11 March for the Defence of Mr Kenyatta.

² ICC-01/09-02/11-619-Conf-Red, para 15 and pp. 8-9.

³ The Prosecution also disclosed one additional document, which is the duplicate copy of the witness's previously disclosed non-ICC prior statement. The Prosecution disclosed this copy for the sake of completeness of the Prosecution's records related to its receipt and custody.

⁴ ICC-01/09-02/11-660-Conf-Anx2.