

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No: ICC-01/09-02/11

Date: 19 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. 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
James Stewart
Adesola Adeboyejo

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 ("Statute") and notifies the Chamber of the disclosure of potentially exculpatory evidence pursuant to Article 67(2) of the Statute, and of material falling within Rule 77 of the Rules of Procedure and Evidence ("Rules").
2. On 15 March 2013, the Prosecution disclosed a total of 24 items, listed in Confidential Annex A. The Prosecution disclosed to the Kenyatta Defence the identity of one witness for whom delayed disclosure had been authorised by the Chamber – namely Witness 493¹ – and re-disclosed the relevant witness material without redactions previously applied to the identity of this witness under Category B.1.²
3. The Prosecution also disclosed four additional items: one as potentially exculpatory evidence and three as material falling under Rule 77 of the Rules. The latter include one open source document, the transcript of a recent interview conducted by the Prosecution and one letter received by the Prosecution in the context of its Article 70 investigations.



Fatou Bensouda,
Prosecutor

Dated this 19th of March 2013

At The Hague, The Netherlands

¹ ICC-01/09-02/11-619-Conf-Red, para 15 and pp. 8-9.

² The Prosecution also disclosed two additional documents under Rule 77, which are draft interview transcripts of Witness 493. The Prosecution had cited these drafts – instead of the disclosed final versions – in its pre-trial brief (ICC-01/09-02/11-596-Conf-AnxD-Red-Corr) and therefore discloses these items to facilitate the Defence's understanding of the Prosecution's reliance on the evidence at issue.