

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 2 April 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

Order authorising disclosure of lesser redacted versions of victims' applications

Decision to be notified, in accordance with regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor

Ms Fatou Bensouda

Ms Adesola Adeboyejo

Counsel for Uhuru Muigai Kenyatta

Mr Steven Kay QC

Ms Gillian Higgins

Legal Representatives of Victims

Mr 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

Ms Silvana Arbia

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Others

Trial Chamber V ("Chamber") of the International Criminal Court ("Court") in the case of *The Prosecutor v. Uhuru Muigai Kenyatta*, pursuant to Regulations 23bis and 42 of the Regulations of the Court, issues this Order authorising disclosure of lesser redacted versions of victims' applications.

1. On 12 February 2013, the Office of the Prosecutor ("Prosecution") filed the "Prosecution's request for authorisation to disclose with lesser redactions victims' applications related to Prosecution witnesses" ("Application").¹ The Prosecution requests permission to disclose with lesser redactions seven victims' applications relating to five Prosecution trial witnesses.² These applications were previously disclosed to the defence for Mr Kenyatta ("Defence") with redactions consistent with those applied by the Registry in the redacted versions of the annexes to the submissions transmitting victims' applications before Pre-Trial Chamber II.³
2. The Defence did not file any response to the Application.
3. The Prosecution indicates that it intends to disclose the seven applications with limited redactions applied to contact information of witnesses and third parties, in accordance with the Chamber's Decision on the protocol establishing a redactions regime and annexed Protocol ("Redaction Protocol").⁴
4. As an initial matter, the Chamber observes that there is no longer any justification for the redactions at issue to be maintained vis-à-vis the Defence. The Chamber considers that although the Redaction Protocol provides for ongoing redactions to the contact information of "other persons at risk as a result of the activities of the

¹ ICC-01/09-02/11-640.

² ICC-01/09-02/11-640, para.3.

³ ICC-01/09-02/11-640, para. 2.

⁴ ICC-01/09-02/11-640, para. 2, referring to paragraphs 56 and 59 of the protocol annexed to the Decision on the protocol establishing a redactions regime, ICC-01/09-02/11-495-AnxA.

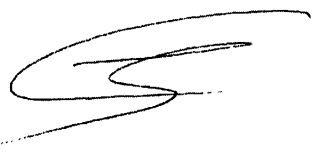
Court",⁵ it is silent as to redactions to the contact information of witnesses. Nevertheless, given that the Protocol on the handling of confidential information and contacts with witnesses whom the opposing party intends to call⁶ makes clear that contacts with witnesses of another party should be facilitated by the calling party,⁷ and as there is no suggestion that the contact information of these five witnesses is relevant to any aspect of the present case, the Chamber authorises the Prosecution's request to disclose lesser redacted versions of the applications.

The Chamber hereby authorises the Prosecution to disclose lesser redacted versions of the victims' applications related to Witnesses 390, 363, 387, 388 and 427.

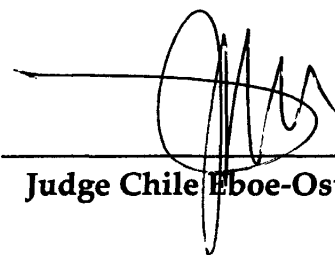
Done in both English and French, the English version being authoritative.



Judge Kuniko Ozaki, Presiding Judge



Judge Christine Van den Wyngaert



Judge Chile Eboe-Osuji

Dated 2 April 2013

At The Hague, The Netherlands

⁵ ICC-01/09-02/11-495-AnxA, para. 58.

⁶ 24 August 2012, ICC-01/09-02/11-469-Anx.

⁷ ICC-01/09-02/11-469-Anx, paras 4 – 9.