

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No: ICC-01/09-02/11

Date: 5 June 2013

TRIAL CHAMBER V (b)

Before: Judge Kuniko Ozaki, Presiding Judge
Judge Robert Fremr
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**

Paolina Massidda
Caroline Walter

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Herman von Hebel
Didier Daniel Preira

Defence Support Section

Victims and Witnesses Unit

Patrick Craig

Detention Section

**Victims Participation and Reparations
Section**

Fiona McKay

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 Statute. The Prosecution also notifies the Chamber of the disclosure of material falling within Rule 77 of the Rules of Procedure and Evidence.
2. On 3 June 2013, the Prosecution disclosed or re-disclosed to the Defence a total of 57 items, listed in Confidential Annex A. Most of these items were disclosed pursuant to the undertaking given by the Prosecution to the Chamber on 21 May 2013 in its certification of the case-file review.¹ The disclosed items include records of the recent limited follow-up interviews with certain trial witnesses, which were being transcribed at the time of the filing of the certification. The Prosecution also disclosed some transcripts and annexes related to such follow-up interviews, conducted most recently, which were submitted for transcription since the filing to the Chamber and in the meantime completed. The Prosecution will disclose the remaining transcripts as soon as they are completed and technically prepared for disclosure, and it anticipates that this will take place no later than 7 June 2013.
3. Further, the Prosecution disclosed the identity of Witness 334 pursuant to the Chamber's 5 February 2013 ruling,² and re-disclosed his statement with the redactions applied to his identity now lifted.
4. The Prosecution disclosed certain witness materials related to the four delayed disclosure witnesses, whose identities have not been disclosed to the Defence (430, 494, 506, and 510). As stated in its 21 May 2013 certification, the Prosecution anticipated disclosing these materials when the identities of these witnesses are disclosed.³ Upon reconsideration, and as an interim measure, the Prosecution disclosed the said materials with B.1 redactions applied to the identities of the witnesses. The Prosecution will re-disclose the materials with the redactions lifted

¹ ICC-01/09-02/11-740, para. 19.

² ICC-01/09-02/11-619-Conf-Red, p. 9; *see also* paras 12-14.

³ ICC-01/09-02/11-740, para. 19.

as soon as the Victims and Witnesses Unit advises that the identities of these witnesses can be disclosed.

5. The Prosecution has reviewed some redactions in the interview transcripts of Witness 152 and identified several instances, in which redactions applied to the contact information of third parties under Category B.3 were no longer required and/or justified. The Prosecution thus re-disclosed relevant materials with those redactions lifted.



Fatou Bensouda,
Prosecutor

Dated this 5th day of June 2013
At The Hague, The Netherlands