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

Date: 26 June 2012

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. WILLIAM SAMOEI RUTO and JOSHUA ARAP SANG***

**Public,
With Confidential Annex A**

**Prosecution's Communication of the Disclosure of Potentially Exculpatory
Evidence pursuant to Article 67(2) of the Rome Statute and Rule 77 Materials to
the Defence**

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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The Office of Public Counsel for Victims

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States Representatives

Amicus Curiae

REGISTRY

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Silvana Arbia

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Victims and Witnesses Unit

Defence Support Section

Detention Section

Victims Participation and Reparations Section

Other

The Prosecution hereby submits its communication of the disclosure of potentially exculpatory evidence, pursuant to Article 67(2) of the Rome Statute, and information material to the preparation of the defence, pursuant to Rule 77 of the Rules of Procedure and Evidence.

I. Procedural History

1. On 14 May 2012, Trial Chamber V issued an order scheduling a status conference in the case following its constitution.¹
2. On 6 June 2012, Trial Chamber V issued a scheduling order and amended agenda for the status conference to take place on 11 June 2012.²
3. During the status conference of 11 June 2012, the Prosecution submitted that a number of materials have been identified that are ready to be disclosed to the Defence, some unredacted and others with limited redactions to the names of staff members of the OTP.³ On 21 June 2012, the Prosecution disclosed to the Defence teams of Mr Ruto and Mr Sang 19 items of potentially exculpatory evidence pursuant to Article 67(2) and 105 items pursuant to Rule 77. As agreed between the parties, the names of certain OTP staff members have been redacted from the metadata for a number of these materials.
4. In keeping with prior practice to keep the Chamber informed of the execution of its disclosure obligations, the Prosecution herewith submits its communication of disclosure to the Defence of materials pursuant to Article 67(2) and Rule 77. Annex A contains a list of the disclosed materials setting out *inter alia* the disclosure category, the recipient/s, any applicable redactions and the level of

¹ ICC-01/09-01/11-413.

² ICC-01/09-01/11-422.

³ ICC-01/09-01/11-T-15-ENG ET WT, pages 12-13.

confidentiality of each item. Due to the confidential nature of some of the materials disclosed, Annex A is classified as confidential.



Fatou Bensouda

Prosecutor

Dated this 26th day of June 2012

At The Hague, The Netherlands