



Original: English

No.: ICC-01/09-02/11  
Date: 5 September 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. FRANCIS KIRIMI MUTHAURA AND UHURU  
MUIGAI KENYATTA***

**URGENT  
Public Document  
*With Public Annex A***

**First Joint Prosecution and Defence Submission on Agreements as to Evidence**

**Source:** The Office of the Prosecutor, Defence of Francis Kirimi Muthaura, Defence of Uhuru Muigai Kenyatta

**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. A. Khan QC, Essa Faal,  
Kennedy Ogetto & Shyamala Alagendra

**Counsel for Uhuru Muigai Kenyatta**

Steven Kay QC and Gillian Higgins

**Legal Representatives of Victims**

Morris Anyah

**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

**Defence Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

1. In the “Decision on the schedule leading up to trial” issued on 9 July 2012, Trial Chamber V (“the Chamber”) instructed the Prosecution and the Defence teams (“the Parties”) “to liaise with a view to reaching agreement about non-contentious issues”, and file a first joint submission on agreed facts by 3 September 2012.<sup>1</sup> On 3 September 2012, the Parties filed a Regulation 35 of the Regulations of the Court motion for extension of this deadline until 5 September 2012.<sup>2</sup> On the same day, the Chamber granted the motion.<sup>3</sup>
2. The discussions between the Parties have resulted in mutual agreements on certain facts that are listed in Annex A to this submission. The parties are continuing to confer in order to potentially agree on more facts that are currently in dispute. As soon as any agreements are reached, they will be communicated to the Chamber at the earliest opportunity.

Respectfully submitted,



---

Fatou Bensouda,  
Prosecutor

---

<sup>1</sup> ICC-01/09-02/11-451, para. 15.

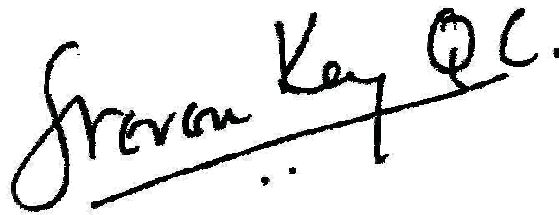
<sup>2</sup> ICC-01/09-02/11-473.

<sup>3</sup> ICC-01/09-02/11-474.



---

Karim Khan QC  
Lead Counsel, Muthaura Defence



---

Steven Kay QC  
Lead Counsel, Kenyatta Defence

Dated this 5<sup>th</sup> day of September, 2012  
At The Hague, The Netherlands