



Original: English

No.: ICC-01/09-01/11
Date: 1 February 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. WILLIAM SAMOEI RUTO and JOSHUA ARAP SANG***

**Public
With Confidential Annex A**

Prosecution's Communication of the Disclosure and Re-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

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Other

1. In the “Decision on the schedule leading up to trial”,¹ Trial Chamber V (‘the Chamber’) ordered the Prosecution to disclose to the defence all incriminatory material in the form of witness statements and any other materials to be relied on at trial. On 17 December 2012, the Prosecution filed an application requesting the Chamber to authorize the delayed disclosure of a number of witnesses, including P-32.² On 27 December, the Prosecution filed a subsequent application for delayed disclosure of several witnesses, including P-535.³ On 23 January, the Chamber denied the requests pertaining to P-32 and P-535 and ordered their disclosure to be effected by 30 January.⁴ In the same Decision, the Chamber denied the Prosecution’s request to redact the dates of interview on P-495 and P-516 and P-536’s statements.⁵
2. On 30 January 2013, the Prosecution disclosed 33 items of incriminating material relating to witness P-32, two items of incriminating material relating to P-535 and three items of potentially exculpatory material relating to witness P-32. The Prosecution also re-disclosed 17 items of incriminating materials relating to witnesses P-495, P-516 and P-536, with the redactions of interview dates lifted as ordered. All items disclosed to the Defence on 30 January are listed in Confidential Annex A.⁶
3. The items contain standard redactions implemented in accordance with the Chamber’s “Decision on the protocol establishing a redaction regime”, as well as A.4 non-standard redactions, which the Chamber authorised in decision ICC-01/09-01/11-518-Conf.

¹ ICC-01/09-01/11-440.

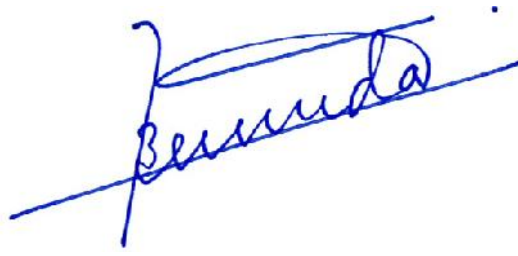
² ICC-01/09-01/11-515-Conf-Red.

³ ICC-01/09-01/11-521-Conf-Red.

⁴ ICC-01/09-01/11-564-Conf-Red.

⁵ *Ibid.*, para. 98.

⁶ Annex 1 is classified as Confidential due to the confidential nature of the materials disclosed.



Fatou Bensouda, Prosecutor

Dated this 1st day of February 2013

At The Hague, The Netherlands