



Original: English

No. ICC-01/09-01/20

Date: 19 February 2021

PRE-TRIAL CHAMBER A (ARTICLE 70)

Before: Judge Reine Adélaïde Sophie Alapini-Gansou

SITUATION IN THE REPUBLIC OF KENYA

IN THE CASE OF

THE PROSECUTOR v. PAUL GICHERU

Public

Order Recalling the Conditions of Mr Gicheru's Interim Release

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

The Office of the Prosecutor

Ms Fatou Bensouda
Mr James Stewart

Counsel for the Defence

Mr Michael G. Karnavas

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants
for Participation/Reparations**

**The Office of Public Counsel
for Victims**

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

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and
Reparations Section**

Other

PRE-TRIAL CHAMBER A (ARTICLE 70) of the International Criminal Court issues this Order Recalling the Conditions of Mr Gicheru’s Interim Release.

I. PROCEDURAL HISTORY

1. On 10 March 2015, Pre-Trial Chamber II, in its then composition, issued warrants of arrest against Mr Gicheru and Mr Bett for their alleged responsibility for offences against the administration of justice under article 70(1)(c) of the Rome Statute (the ‘Statute’).¹

2. On 2 November 2020, Mr Gicheru surrendered himself to the authorities of the Kingdom of the Netherlands.²

3. On 29 January 2021, upon request of Mr Gicheru, the Chamber issued a decision granting his interim release (the ‘Interim Release Decision’).³ In the Interim Release Decision, the Chamber set also out the conditions pursuant to Rule 119 of the Rules of Procedure and Evidence under which the suspect would be released (the ‘Conditions’).⁴ This included the interdiction to ‘directly or through any other person, make any public statements, social media post, or communicate with the media about the merits of the case’.⁵ It also set out the possible consequences of failure to comply with the Conditions.⁶

4. The Chamber notes that, after having arrived in Kenya on 1 February 2021,⁷ Mr Gicheru gave an interview on 4 February 2021 to a Kenyan newspaper.⁸ Therein, he made statements tangent to the current proceedings.

¹ [Decision on the “Prosecution’s Application under Article 58\(1\) of the Rome Statute”](#), ICC-01/09-01/20-1-Red.

² See, Pre-Trial Chamber II, [Request to the President of the Pre-Trial Division to constitute a Chamber for the purposes of conducting proceedings under article 70 of the Rome Statute](#), 2 November 2020, ICC-01/09-01/20-31, para. 3.

³ Public Redacted Version of ‘Decision on Mr Gicheru’s Request for Interim Release’, 29 January 2021, ICC-01/09-01/20-90-Conf, [ICC-01/09-01/20-90-Red2](#).

⁴ [Interim Release Decision](#), ICC-01/09-01/20-90-Red2, para. 47 and page 18 a).

⁵ [Interim Release Decision](#), ICC-01/09-01/20-90-Red2, para. 47, point 6.

⁶ [Interim Release Decision](#), ICC-01/09-01/20-90-Red2, para. 48.

⁷ Confidential Redacted version of ‘Registry’s Report pursuant to Pre-Trial Chamber A’s Decision of 29 January 2021’ dated 12 February 2021, ICC-01/09-01/20-98-Conf-Exp, 12 February 2021, ICC-01/09-01/20-98-Conf-Red.

⁸ See <https://www.standardmedia.co.ke/nairobi/article/2001402400/i-did-not-travel-to-icc-to-fix-ruto-says-gicheru> (last accessed on 19 February 2021). The interview was picked up by several other media

5. The Chamber hereby reminds Mr Gicheru that the Conditions set out in the Interim Release Decision have to be fulfilled by him at all times. The prohibition on making any statement, social media post, or communication with the media covers all actions which – directly or indirectly – discuss the merits of the case.

FOR THESE REASONS, THE CHAMBER HEREBY

RECALLS the Conditions set out in the Interim Release Decision and that they have to be adhered to at all times.

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



Judge Reine Adélaïde Sophie Alapini-Gansou

Dated 19 February 2021

At The Hague, The Netherlands

sources: <https://jfjustice.net/paul-gicheru-gives-exclusive-interview-to-kenyan-newspaper/>,
<https://www.reactorreview.com/?p=26823>, and <http://sonkonews.com/lawyer-paul-gicheru-denies-being-used-to-revive-rutos-icc-case/>.