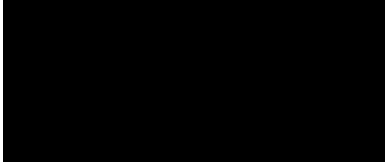
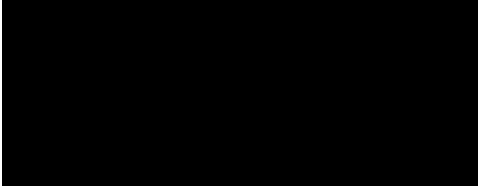


# **Public Redacted Version of Annex A**

**MICHAEL G. KARNAVAS**  
*Attorney at law*



30 November 2020

To: **Mr. Paul Kihara Kariuki**  
Attorney General of the Republic of Kenya

Re: Mr. Paul Gicheru's consent to surrender to the ICC relevant to the Republic of Kenya's observations to ICC Pre-Trial Chamber A [AG/SEC/14/209/6 VOL 1(53)]

Dear Mr. Attorney General,

As Mr. Paul Gicheru's appointed Counsel in the Article 70 proceedings against him at the International Criminal Court ("ICC"), I write regarding the Republic of Kenya's observations regarding its willingness and ability to enforce conditions of provisional release and facilitate Mr. Gicheru's travel between Kenya and the Netherlands for the proceedings.

In your observations you note that the High Court of Kenya lifted Mr. Gicheru's arrest warrant and directed Kenya not to act in furtherance of the request for his surrender. You also note that although Mr. Gicheru did not comply with the statutory procedure in Section 41 of the International Crimes Act by notifying the High Court that he consents to surrender, he still has an opportunity to do so.

Obviously, by traveling on his own volition to the Netherlands to surrender to the ICC, Mr. Gicheru has consented to the ICC's jurisdiction. However, noting the need for Mr. Gicheru to formally comply with Section 41 of the International Crimes Act, through this letter and the attached consent, hereby informs the High Court of Kenya that he knowingly, intelligently, freely, and unequivocally consents to being surrendered to the ICC for the Article 70 proceedings initiated against him by the ICC Office of the Prosecutor ("OTP").

The OTP does not object to Mr. Gicheru's provisional release and it is virtually certain that Pre-Trial Chamber A will decide favorably for Mr. Gicheru. Accordingly, I respectfully and urgently request your good offices to communicate the attached consent to the Cabinet Secretary of Ministry of Interior and Coordination of National Government and the High Court of Kenya, to request the High Court to reconsider its 16 November 2017 Judgment, and to communicate the Government's reconsidered position to the ICC on whether it is willing and able to enforce conditions of provisional release, if ordered by the Chamber.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'M. Karnavas', with a stylized flourish at the end.

Michael G. Karnavas  
Counsel for Mr. Paul Gicheru

**CONSENT TO SURRENDER TO THE INTERNATIONAL CRIMINAL COURT**

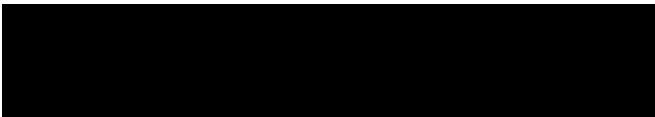
I, Mr. Paul Gicheru, pursuant to the statutory requirements of Section 41 of the International Crimes Act,<sup>1</sup> hereby notify the Cabinet Secretary of the Ministry of Interior and Coordination of National Government, and the High Court of the Republic of Kenya that:

1. I am legally represented by Mr. Michael G Karnavas in the Article 70 proceedings against me initiated by the International Criminal Court (“ICC”) Office of the Prosecutor;
2. I have been advised by Mr. Michael G. Karnavas of the full consequences of my surrender to the ICC; and
3. I knowingly, intelligently, freely, and unequivocally consent to being surrendered to the ICC for the purposes of the Article 70 proceedings.

Dated:

The Hague, The Netherlands

Respectfully submitted,



Mr. Paul Gicheru

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<sup>1</sup> Laws of Kenya, International Crimes Act, No. 16 of 2008, Section 41: “(1) A person may at any time notify the High Court that he consents to being surrendered to the ICC for the international crime or crimes for which his surrender is sought. (2) The Court may accept the notification of consent under subsection n(1) if—(a) the person is before the Court when notification of the consent to surrender is given; (b) the person has been legally represented in the proceedings; and (c) the Court is satisfied that the person freely consented to the surrender in full knowledge of its consequences; (3) Nothing in this Part prevents a person, in respect whom a determination of eligibility for surrender is made by the High Court under section 39, from subsequently notifying the Minister that he consents to the surrender.”