



Original : English

N°: ICC-01/09-01/20  
Date: 18 November 2022

**TRIAL CHAMBER III**

**Before: Judge Miatta Maria Samba**

**SITUATION IN THE REPUBLIC OF KENYA**

**IN THE CASE OF  
*THE PROSECUTOR v. PAUL GICHERU***

**Public**

**With Confidential Annex 1 and its Public Redacted Version**

**Registry's Report on Evidence Recognised as Formally Submitted by the  
Chamber for Witness KEN-OTP-P-0516**

**Source : Registry**

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

**The Office of the Prosecutor**

Ms Nazhat Shameem Khan

Mr Anton Steynberg

**Counsel for the Defence**

Mr Michael G. Karnavas

Ms Suzana Tomanović

**Legal Representatives of the Victims**

**Legal Representatives of the Applicants**

**Unrepresented Victims**

**Unrepresented Applicants  
(Participation/Reparation)**

**The Office of Public Counsel for  
Victims**

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

**States' Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Mr Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Unit**

Mr Nigel Verrill

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

## I. Introduction

1. The Registry hereby submits the present report (“Registry Report”) and its two annexes consisting of a confidential version of items recognised as evidence formally submitted and its public redacted version, pursuant to the “Directions on the Conduct of the Proceedings” (“Directions”),<sup>1</sup> issued on 7 October 2021 by Trial Chamber III (“Chamber”).

## II. Procedural History

2. On 7 October 2021, the Chamber issued its Directions, in which it directed the Registry to: “ “[...] reflect all formally submitted items in the eCourt metadata [...]”, and to “[...] submit reports for each witness who testifies, indicating which items of evidence have been formally submitted by the parties and participants in relation to that witness. The email exchanges [...] are to be annexed to this filing, applying redactions as appropriate.”<sup>2</sup>
3. From 17 to 21 March 2022, the Office of the Prosecutor (“Prosecution”) called its seventh witness. After the conclusion of the examination of witness P-0516, parties formally submitted items used during the hearings as instructed in the Directions.
4. On 30 March 2022, the Chamber issued the decision on items of evidence recognised as formally submitted for witness P-0516 via email.<sup>3</sup> Pursuant to the Directions, the Registry was instructed to apply redactions as appropriate to the emails enclosed in Annex 1 to the filing.

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<sup>1</sup> Trial Chamber III, Directions on the conduct of proceedings, ICC-01/09-01/20-189, 7 October 2021.

<sup>2</sup> *Ibid.*, para 17 (iv).

<sup>3</sup> Email sent by Trial Chamber III Communications on 30 March 2022 at 14:36.

### III. Applicable Law

5. For the purpose of the present submission, the Registry has considered *inter alia* articles 64(7), 64(10) and 67(1) of the Rome Statute and rule 137 of the Rules of Procedure and Evidence.

### IV. Submission

6. The Registry hereby submits the following list of ERNs recognised as formally submitted pursuant to the Chamber's Decision by e-mail of 30 March 2022:

**Items submitted by the Prosecution:**

KEN-OTP-0160-1731

KEN-OTP-0160-1736

KEN-OTP-0160-1727

**Items submitted by the Defence for Mr. Gicheru:**

KEN-OTP-0157-2598-R01

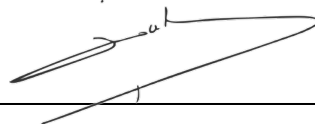
7. The Registry hereby attaches confidential Annex 1:
- **Annex 1:** "Decision on Submitted Materials for P-0516"
8. In order to enable the parties and participants to suggest specific additional redactions to Annex 1, the Registry liaised by email with the Prosecution and the Defence.<sup>4</sup> Further redactions were proposed by the parties.<sup>5</sup>

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<sup>4</sup> Email sent by the Associate Legal Officer/Courtroom Officer, on 24 October 2022 at 17:33 attaching Annex 1.

<sup>5</sup> Subsequent to *inter partes* consultation, the Prosecution sent the Annex with the agreed upon redactions to the Chamber, the Registry and the parties and participants on 07 November 2022 at 12:01.

9. Accordingly, the Registry applied redactions to the emails set forth in the following public redacted version of Annex 1: "Decision on Submitted Materials for P-0516", dated 30 March 2022 at 14:36.



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Marc Dubuisson  
Director, Division of Judicial Services  
on behalf of Peter Lewis, Registrar

Dated this 18 November 2022

At The Hague, The Netherlands