

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-01/09-01/15**

Date: **06 August 2020**

Date of Submission: 8 May 2023

PRE - TRIAL CHAMBER II

Before: Judge Antoine Kesia-Mbe Mindua, Presiding
Judge Tomoko Akane
Judge Rosario Salvatore Aitala

SITUATION IN THE REPUBLIC OF KENYA

**IN THE CASE OF THE PROSECUTOR *v.* PAUL GICHERU AND PHILIP
KIPKOECH BETT**

Public

With public Annex A

Public redacted version of "Prosecution's filing of further correspondence from Paul Gicheru and urgent request for permission to disclose", 6 August 2020, ICC-01/09-01/20-27-Conf

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

Ms Nazhat Shameen Khan

Mr Anton Steynberg

Counsel for the Defence

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

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Introduction

1. The Prosecution files herewith further correspondence received from Mr Paul Gicheru¹ and requests urgent permission to disclose to Gicheru the Pre-Trial Chamber's² determination in its Decision on the warrant of arrest against Mr Paul Gicheru.³

Procedural history

2. On 27 July 2020, the Chamber issued the Decision, in which it recounted the procedural history to date⁴ and determined that the warrant of arrest against Mr Paul Gicheru shall remain in effect.
3. On 28 July 2020, the Prosecution filed with the Chamber additional correspondence received from Gicheru.⁵
4. On 30 July 2020, the Prosecutor received, by email, a further letter from Gicheru⁶ in which he repeats his request to withdraw the warrant and replace it with a summons. He offers to travel to the Court at his own expense should this be done. However, he provides no new facts justifying the withdrawal of the warrant.

Confidentiality

5. Pursuant to regulation 23bis(2) of the Regulations of the Court, this response is filed as under seal, *ex parte*, only available to the Office of the Prosecutor, since it relates to previous filings of a similar classification.

Submissions

6. The Prosecution files the further correspondence received from Gicheru on 30 July 2020 as "Annex A". The Prosecution considers that the latest letter provides no additional facts which would warrant the Chamber reconsidering the Decision.

¹ "Gicheru".

² "Chamber".

³ ICC-01/09-01/15-25-US-Exp, "The Decision".

⁴ Decision, paras. 1-4, which the Prosecution adopts.

⁵ ICC-01/09-01/15-26-US-Exp.

⁶ Annex A.

7. [REDACTED]. However, the Prosecution considers that the discussions would be facilitated if it were able to communicate to him the Chamber's determination in the Decision.
8. Since the Decision was issued under seal, *ex parte*, only available to the Office of the Prosecutor, the Prosecution urgently requests the Chamber to permit such disclosure, as it would like to progress the discussions as soon as possible. The Prosecution does not consider it appropriate to disclose the entire decision at this stage, since Gicheru is not yet a party to the proceedings.

Relief

9. The Prosecution requests urgent permission to disclose to Gicheru the Chamber's determination that "the warrant of arrest against Mr Paul Gicheru shall remain in effect".



Ms Nazhat Shameen Khan, Deputy Prosecutor

Dated this 8th day of May 2023

At The Hague, The Netherlands