

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-01/09-01/20**

Date: **21 March 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-Redacted

Decision on the Prosecution Request to Withdraw a Summons

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

The Office of the Prosecutor

Ms Nazhat Khan
Mr Anton Steynberg

Counsel for the Defence

Mr Michael G. Karnavas
Ms Suzana Tomanović

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

TRIAL CHAMBER III of the International Criminal Court, in the case of *The Prosecutor v. Paul Gicheru*, having regard to Article 64(6)(b) and (f) of the Rome Statute (the ‘Statute’), issues this ‘Decision on the Prosecution Request to Withdraw a Summons’.

I. PROCEDURAL HISTORY AND SUBMISSIONS

1. On 17 January 2022, the Office of the Prosecutor (the ‘Prosecution’) filed a request for a summons for P-0743¹ (the ‘Witness’).² Amongst others, in its justification for the motion, it submitted that it cannot reach the Witness and that a summons was necessary to obtain his testimony.³
2. On 2 February 2022, the Chamber granted the request for summons and ordered the Registry to prepare a summons and transmit a request for cooperation to the authorities of [REDACTED].⁴
3. On 15 March 2022, the Prosecution filed a request to withdraw the summons for the Witness (the ‘Request’).⁵ The Prosecution explains that [REDACTED].⁶ Accordingly, the Prosecution considers the need for summons to be moot and requests that the summons not be transmitted to [REDACTED] and to withdraw the cooperation request.⁷
4. The Prosecution further requests that [REDACTED].
5. On 17 March 2022, the Defence indicated that it does not intend to respond to the Request and leaves the matter to the discretion of the Chamber.⁸

¹ Prosecution’s Application for Witness Summons and Resulting Request for State Party Cooperation, ICC-01/09-01/20-260-Conf. A lesser public-redacted version was filed on 24 January 2022, [ICC-01/09-01/20-260-Red2](#).

² [REDACTED].

³ [ICC-01/09-01/20-260-Red2](#), paras 22-23

⁴ Decision on the Prosecution Request for a Summons for P-0743, ICC-01/09-01/20-272-Conf. A public-redacted version was filed on the same day, [ICC-01/09-01/20-272-Red](#).

⁵ Prosecution’s Request to Withdraw Witness Summons for P-0743 and Related Cooperation Request, ICC-01/09-01/20-301-Conf.

⁶ Request, ICC-01/09-01/20-301-Conf, paras 1 and 6.

⁷ Request, ICC-01/09-01/20-301-Conf, para. 7.

⁸ Email from the Defence to the Chamber, 17 March 2022, at 15:31.

6. The Chamber notes the reasons provided by the Prosecution as to why the summons is no longer necessary and accordingly grants the Request.

7. It further instructs the Registry to cease attempting to transmit a summons concerning the Witness to [REDACTED] and to inform them that the request for cooperation on this matter is no longer necessary and therefore withdrawn. [REDACTED].

FOR THESE REASONS, THE CHAMBER HEREBY

GRANTS the Request; and

ORDERS the Registry to act in accordance with paragraph 7 above.

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



Judge Miatta Maria Samba

Dated 21 March 2022

At The Hague, The Netherlands