

Pursuant to TC III's instruction dated 05.05.2023, this document is reclassified as Public

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/09-01/20
Date: 8 December 2021

TRIAL CHAMBER III

Before: Judge Miatta Maria Samba

SITUATION IN THE REPUBLIC OF KENYA

IN THE CASE OF

THE PROSECUTOR v. PAUL GICHERU

Confidential

With confidential annexes A and B

**Prosecution's submission of confidential redacted versions of ICC-01/09-01/20-226-
Conf-Exp-AnxR and ICC-01/09-01/20-227-Conf-Exp**

Source: Office of the Prosecutor

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

The Office of the Prosecutor

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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**

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1. On 4 November 2021, the Office of the Prosecutor ("Prosecution") filed its fifth request for the transfer of case records from the *Prosecutor v. William Samoei Ruto and Joshua Arap Sang* case into the record of the *Prosecutor v. Paul Gicheru* case ("*Gicheru* case" and "Request").¹ In the Request the Prosecution requested that two annexes of the relevant court records be transferred as "confidential", with redactions to their content ("*Annexes*").²
2. On 9 November 2021, Trial Chamber III issued a decision³ granting the Request and ordering the Registry to transfer the court records. On 17 November 2021, the Registry sent an email⁴ seeking further guidance and clarifications on the two Annexes before its implementation and Trial Chamber III replied via email⁵ indicating that the documents should be transferred to the *Gicheru* case as "confidential *ex parte*, Prosecution only" and then authorising the Prosecution to file confidential redacted versions.
3. On 7 December 2021, the Registry informed the Prosecution that after consultation with Trial Chamber III, the Prosecution should file "a report annexing the redacted versions [that] would help avoid any potential misunderstanding as to the source of the documents."⁶
4. Pursuant to the Chamber's decision and subsequent clarification, the Prosecution hereby files the annexed confidential redacted version of ICC-01/09-01/20-226-Conf-Exp-AnxR⁷ and ICC-01/09-01/20-227-Conf-Exp.⁸

¹ ICC-01/09-01/20-207-Conf.

² ICC-01/09-01/20-207-Conf-AnxA.

³ ICC-01/09-01/20-213.

⁴ Email sent on 17 November 2021 at 09:54.

⁵ Email sent on 17 November 2021 at 14:32

⁶ Email sent 7 December 2021 at 16:06.

⁷ Annex A.

⁸ Annex B.

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Mr James Stewart, Deputy Prosecutor

Dated this 8th day of December 2021
At The Hague, The Netherlands