

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No. ICC-01/09-01/20

Date: 9 March 2021

PRE-TRIAL CHAMBER A (ARTICLE 70)

Before: Judge Reine Adélaïde Sophie Alapini-Gansou

SITUATION IN THE REPUBLIC OF KENYA

IN THE CASE OF

THE PROSECUTOR v. PAUL GICHERU

Public

**Decision on the Prosecutor Request for an Extension of the Page Limit of the
Document Containing the Charges**

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

The Office of the Prosecutor

Ms Fatou Bensouda
Mr James Stewart

Counsel for the Defence

Mr Michael G. Karnavas

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

PRE-TRIAL CHAMBER A (ARTICLE 70) of the International Criminal Court issues this Decision on the Prosecutor Request for an Extension of the Page Limit of the Document Containing the Charges.

I. Procedural history and Submissions

1. On 6 November 2020, the Chamber ordered the Prosecutor to file the document containing the charges (the ‘DCC’) on 12 February 2021.¹ The Chamber postponed this deadline in a subsequent decision and set the new date for the filing of the DCC to 12 March 2021.²

2. On 1 February 2021, upon request by the Prosecutor, the Chamber clarified that she is to combine ‘the charges and the narrative and analysis of the facts and analysis into a single document’ including their legal qualification (and the arguments in support of the proposed legal qualification(s)). The Chamber further explained that ‘[t]he DCC should provide an exhaustive view of the Prosecutor’s case’ (the ‘Clarifications’).³

3. On 5 March 2021, the Prosecutor filed a request to extend the page limit of the DCC (the ‘Request’).⁴ The Prosecutor submits that, due to the instructions of the Chamber regarding the content of the DCC, it is necessary to exceed the page limit prescribed by the statutory provisions to 175 pages.⁵

4. The Prosecutor further argues that there is an additional burden due to the fact that the proceedings are conducted entirely in writing, without any oral hearing. This entails, according to the Prosecutor, that the DCC must contain all statements and submissions concerning the case, which justifies the need for an extension of the page limit.⁶

5. On the same day, the Defence indicated via email that it does not oppose the Request.⁷

¹ ICC-01/09-01/20-T-001-Red-Eng, p. 11 lines 1-7.

² Decision on the postponement of the date of filing of written submissions and other related deadlines for the confirmation of charges proceedings, 26 February 2021, ICC-01/09-01/20-103, p. 12, d) 1.

³ Email from the Chamber to the parties, 1 February 2021, at 16:28.

⁴ Prosecution’s Urgent Request for an Extension of the Page Limit for the filing of its Document Containing the Charges, ICC-01/09-01/20-106.

⁵ Request, ICC-01/09-01/20-106, paras 2, 6-8.

⁶ Request, ICC-01/09-01/20-106, paras 14-16.

⁷ Email to the Chamber, 5 March 2021, at 14:31.

II. Analysis

6. The Chamber has regard to regulation 37(2) of the Regulations of the Court (the 'Regulations'), pursuant to which it may extend the page limit in exceptional circumstances.

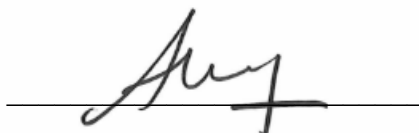
7. The Chamber notes that, pursuant to its Clarifications, the Prosecutor is to incorporate the pre-trial brief in the DCC. The page limit for such submissions is set by regulation 38(1)(a) of the Regulations to 120 pages. Since the page limit for a DCC is set to 30, pursuant to regulation 38(3)(g) of the Regulations, the Chamber finds that a request for a combined document of 175 pages signifies only a very limited increase in the page numbers.

8. Further, the Chamber notes that the Defence does not oppose the Request. Lastly, it recalls that the proceedings before the Chamber are restricted to written submissions and that the parties will therefore not be accorded the possibility to make additional oral submissions. Considering the above, the Chamber finds that there exist exceptional circumstances within the meaning of regulation 37(2) of the Regulations and grants the Request.

FOR THESE REASONS, THE CHAMBER HEREBY

GRANTS the Request.

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



Judge Reine Adélaïde Sophie Alapini-Gansou

Dated 9 March 2021

At The Hague, The Netherlands