

ANNEX A

Public Redacted Version of
ICC-01/09-01/20-59-US-Exp-AnxA



Original: English

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

Date: 14 April 2020

PRE-TRIALCHAMBER II

Before: Judge Antoine Kesia-Mbe Mindua, Presiding Judge
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***

UNDER SEAL

***EX PARTE* only available to the Office of the Prosecutor
With one Under Seal Annex *EX PARTE* only available to the Office of the
Prosecutor**

**Transmission of a letter received from Mr Paul Gicheru and observations of the
Registry on such a letter**

Source: The Registry

Document 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

Legal Representatives of the Victims

Legal Representatives of the Applicants

**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

I. Introduction

1. Noting the “Decision on the ‘Prosecution’s Application under Article 58(1) of the Rome Statute’”¹ (“Decision”) and in the context of the efforts deployed by the Registry in cooperation with the Office of the Prosecutor (“Prosecution”) to receive information relating to possible travels of suspects,² this report is submitted pursuant to the instruction of Pre-Trial Chamber II (“Chamber”).³

II. Classification

2. Pursuant to regulation 23*bis* (2) of the Regulations of the Court (“RoC”), the present report and its annex are submitted as under seal *ex parte* only available to the Office of the Prosecutor as they refer to a letter from Mr Paul Gicheru (“Mr Gicheru”), a suspect at large, for the attention of the Prosecutor of the International Criminal Court (“Court”).

III. Applicable law

3. The present submission is based on rule 13(1) of the Rules of Procedure and Evidence and regulation 23*bis*(2) of the RoC.

IV. Submissions

4. On 10 March 2020, the Prosecution received a letter dated 6 March 2020 (“Letter”) from Mr Gicheru.⁴
5. On the same day, the Prosecution transmitted the Letter to the Presidency of the Court even though the Letter’s envelope was addressed to the Prosecutor, since the letter itself was addressed to the President of the Court.

¹ Pre-Trial Chamber II, Single Judge, “Decision on the “Prosecution’s Application under Article 58(1) of the Rome Statute”, 10 March 2015, ICC-01/09-01/15-1-Conf-Exp.

² Pre-Trial Chamber II, “Orders to the Registrar concerning action to be taken in case of information relating to travel of suspects”, 15 April 2015, ICC-02/04-01/05-428, page 6.

³ E-mail from Pre-Trial Chamber II to the Registry on 27 March 2020 at 16.42.

⁴ Annex I.

6. On 26 March 2020, the Presidency transmitted the Letter to the Chamber.⁵
7. On 27 March 2020, the Chamber requested the Registry to submit its observations on the Letter and “with the view to ensuring the completeness and transparency of the record” instructed the Registry to file the Letter.⁶
8. The Registry therefore provides the Chamber with the following information that it finds useful to the present case:
 - a. This is the first time that Mr Gicheru contacts the Court with a view to voluntarily appearing before the Court at any time if he is required to do so⁷;
 - b. The Registry does not possess information regarding Mr Gicheru’s family situation which would enable the Registry to identify the country to which Mr Gicheru would like to travel;
 - c. [REDACTED]
[REDACTED]
 - d. Mr Gicheru has no lawyer representing him before the Court; and
 - e. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

9. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

⁵ E-mail from the Presidency to Pre-Trial Chamber II dated 26 March 2020 at 11.34.

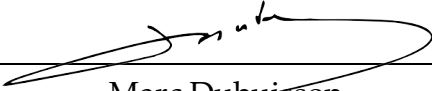
⁶ E-mail from Pre-Trial Chamber II to the Registry dated 27 March 2020 at 16.42.

⁷ Annex I.

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED].
10. The Prosecution has informed the Registry that following receipt of the Letter, it had been in contact with Mr Gicheru in order to obtain more details on the health and compassionate grounds referred to in the Letter, as well as on his undertaking to cooperate and voluntarily appear. The Prosecution will inform the Chamber as soon as possible on the information received from Mr Gicheru, the outcome of these discussions and a proposed course of action.
11. The Registry is not in a position to address the question raised by Mr Gicheru concerning the withdrawal of the arrest warrant issued against him.

V. Conclusion

12. The Registry hereby transmits the Letter in annex I.
13. In coordination with the Prosecution, the Registry will continue to assess the relevant developments and opportunities to conduct operations as soon as the situation allows it.



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

Dated this 14 April 2020

At The Hague, the Netherlands