

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-01/09-01/20**
Date: **14 October 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

Decision Terminating the Proceedings against Paul Gicheru

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

The Office of the Prosecutor

Ms Nazhat Shameem 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*, pursuant to Article 64(6)(f) of the Statute, issues this ‘Decision Terminating the Proceedings against Paul Gicheru’.

1. On 15 March 2015, Pre-Trial Chamber II issued, *inter alia*, an arrest warrant against the accused.¹
2. On 2 and 3 November 2020, the accused surrendered and was transferred to the Court.² On 29 January 2021, Pre-Trial Chamber A granted a Defence request for interim release.³
3. On 15 July 2021, Pre-Trial Chamber A issued its ‘Decision on the confirmation of charges against Paul Gicheru’, confirming eight counts of offences against the administration of justice under Article 70(1)(c) of the Statute against Mr Gicheru.⁴
4. On 15 February 2022, the trial against the accused commenced.⁵ After having heard the closing statements of the parties on 27 June 2022⁶ the Chamber retired for deliberations on the same day.⁷
5. On 27 September 2022, the Defence and the Registry independently informed the Chamber that the accused had passed away.⁸
6. On 13 October 2022, the Registry filed an official communication from the Republic of Kenya into the record of the case in which it confirms the death of the accused and attached an administrative document authorising the burial.⁹

¹ Decision on the “Prosecution’s Application under Article 58(1) of the Rome Statute”, 10 March 2015, ICC-01/09-01/20-1-Conf-Exp. A public redacted version was notified on 10 September 2015. [ICC-01/09-01/20-1-Red](#).

² Report of the Registry on the Arrest and Surrender of Mr Paul Gicheru and Request for Guidance on Mr Paul Gicheru’s belongings, 5 November 2020, ICC-01/09-01/20-35-Conf, paras 6-9.

³ Decision on Mr Gicheru’s Request for Interim Release, 29 January 2021, ICC-01/09-01/20-90-Conf. A public redacted version was notified on the same day. [ICC-01/09-01/20-90-Red2](#).

⁴ Pre-Trial Chamber A, Decision on the confirmation of charges against Paul Gicheru, 15 July 2021, ICC-01/09-01/20-153-Conf (‘Confirmation of Charges Decision’). A public redacted version was notified on the same day. [ICC-01/09-01-20-153-Red](#).

⁵ Transcript of hearing, 15 February 2022, [ICC-01/09-01/20-T-050-Red-Eng](#).

⁶ Transcript of hearing, 27 June 2022, [ICC-01/09-01/20-T-069-ENG](#).

⁷ Transcript of hearing, 27 June 2022, [ICC-01/09-01/20-T-069-ENG](#), p. 51, lines 24-25.

⁸ Email from the Registry to the Chamber, on 27 September 2022, at 9:52 and email from the Defence to the Chamber, also on 27 September 2022, at 11:24.

⁹ Transmission of a note verbale from the authorities of the Republic of Kenya, ICC-01/09-01/20-335-Conf, with two confidential annexes. The Chamber notes that the main filing of the Registry has no

7. The Chamber considers this sufficient proof to establish the death of the accused.¹⁰ Accordingly, it terminates the proceedings in this case.

FOR THESE REASONS, THE CHAMBER HEREBY

TERMINATES the proceedings against Paul Gicheru.

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



Judge Miatta Maria Samba

Dated 14 October 2022

At The Hague, The Netherlands

public-redacted version. It hereby instructs the Registry to either communicate to the court management section that the filing can be reclassified as ‘public’ or file a public-redacted version of its communication.

¹⁰ See also, Trial Chamber IV, *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus*, Decision terminating the proceedings against Mr Jerbo, 4 October 2013, [ICC-02/05-03/09-512-Red](#), para. 18. Further, Article 85(3) of the Rome Statute clearly indicates that the statutory framework of the Rome Statute foresees the possibility of a termination of the proceedings.