

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 30 March 2021

**PRE-TRIAL CHAMBER II**

**Before:** Judge Cuno Tarfusser, Presiding Judge  
Judge Marc Perrin de Brichambaut  
Judge Chang-ho Chung

**SITUATION IN THE REPUBLIC OF KENYA**

**IN THE CASE OF THE PROSECUTOR v. PAUL GICHERU AND PHILIP  
KIPKOECH BETT**

**Public**

**Public Redacted Version of “Prosecution’s Request for the Unsealing of the Warrants  
of Arrest for Paul Gicheru and Philip Kipkoech Bett”, 28 August 2015, ICC-01/09-  
01/15-10-Conf-Exp**

**Source:** Office of the Prosecutor

**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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Mr James Stewart  
Mr Anton Steynberg

**Counsel for the Defence**

Mr Michael G. Karnavas

**Legal Representatives of Victims**

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparation**

**The Office of Public Counsel for  
Victims**

**The Office of Public Counsel for the  
Defence**

**States Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar and Deputy Registrar**  
Mr Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

## I. Introduction

1. Pursuant to regulation 23(3)*bis* of the Regulations of the Court (“Regulations”), the Office of the Prosecutor (“Prosecution”) requests the Pre-Trial Chamber II (“The Chamber”) to unseal the Warrants of Arrest for Paul Gicheru (“Gicheru”)<sup>1</sup> and Philip Kipkoech Bett (“Bett”)<sup>2</sup> as the initial purpose for keeping them under seal no longer exists. In execution of the Court’s request, the two suspects were arrested on 30 July 2015 by the Kenyan police in Nairobi, Kenya.<sup>3</sup> Gicheru and Bett were subsequently presented before a Judge of the High Court of Kenya. Therefore, the suspects are already aware of the Arrest Warrants against them and thus the confidentiality of any subsequent search and seizure of their offices and residences is no longer necessary.<sup>4</sup>

## II. Submissions

2. On 10 March 2015 the Single Judge issued two sealed Arrest Warrants for Gicheru and Bett, on charges of interfering with ICC witnesses contrary to article 70(1)(c) of the Rome Statute.<sup>5</sup>

3. [REDACTED].<sup>6</sup>

4. [REDACTED] Gicheru and Bett were separately arrested on the streets of Nairobi by the Kenyan police on 30 July 2015 and presented before a Judge of the High Court of Kenya in accordance with the Kenyan law. [REDACTED].<sup>7</sup>

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<sup>1</sup> ICC-01/09-01/15-1-US-Exp, para. 31(a), Decision on the “Prosecution’s Application under Article 58(1) of the Rome Statute dated 10 March 2015.

<sup>2</sup> ICC-01/09-01/15-1-US-Exp, para. 31(b).

<sup>3</sup> [REDACTED]

<sup>4</sup> [REDACTED]

<sup>5</sup> ICC-01/09-01/15-1-US-Exp, para. 31 (a) and (b).

<sup>6</sup> [REDACTED]

<sup>7</sup> [REDACTED]

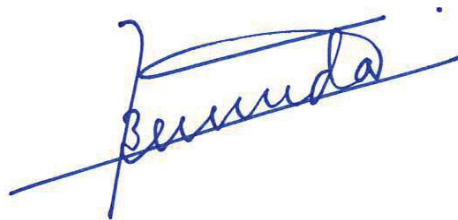
5. Since the Arrest of Gicheru and Bett has allegedly already been effected by the Kenyan authorities and any subsequent search and seizure of their residences or offices in the circumstances is not likely to yield the desired results, the purpose of keeping the Arrest Warrants under seal no longer exists. The Warrants of Arrest in their present form can be reclassified as public as the Single Judge ensured that no specific reference was made to the fact that the witnesses who were approached by Gicheru and Bett are witnesses in the *Ruto & Sang* case or were the source of the relevant information in this case.<sup>8</sup>

### III. Confidentiality

6. Pursuant to regulation 23(2)*bis* of the Regulations of the Court, the Prosecution requests that this document be received as “Under Seal, *EX PARTE*, only available to the Prosecution”, as it relates to the Single Judge’s Decision, which bears the same classification.

### IV. Relief Sought

7. In light of the above, the Prosecution requests the Chamber to unseal the Arrest Warrants for Paul Gicheru and Philip Kipkoech Bett.



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**Fatou Bensouda, Prosecutor**

Dated this 30<sup>h</sup> day of March 2021  
At The Hague, The Netherlands

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<sup>8</sup> ICC-01/09-144-US-Exp, para. 126, Prosecution’s Application Under Article 58(1) of the Rome Statute Dated 9 February 2015. See also ICC-01/09-01/15-1-US-Exp, Decision on the “Prosecution’s Application Under Article 58(1) of the Rome Statute dated 10 March 2015.