



Original: **English**

No.: **ICC-01/09-01/20**

Date: **22 July 2021**

THE PRESIDENCY

Before: Judge Piotr Hofmański, President
Judge Luz del Carmen Ibáñez Carranza, First Vice-President
Judge Antoine Kesia-Mbe Mindua, Second Vice-President

SITUATION IN THE REPUBLIC OF KENYA

**IN THE CASE OF
*THE PROSECUTOR v. PAUL GICHERU***

Public

**Decision constituting Trial Chamber III and referring to it the case of
*The Prosecutor v. Paul Gicheru***

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

The Office of the Prosecutor
Mr James Stewart

Counsel for Mr Paul Gicheru
Mr Michael G. Karnavas

Legal Representatives of the Victims

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

**The Office of Public Counsel for
Victims**

Amicus Curiae

States' Representatives

REGISTRY

Registrar
Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other
Trial Chamber III

THE PRESIDENCY of the International Criminal Court (the ‘Court’);

NOTING article 61(11) of the Statute, pursuant to which the Presidency shall constitute a Trial Chamber once the charges have been confirmed, which shall be responsible for the conduct of subsequent proceedings, and Rule 130 of the Rules of Procedure and Evidence (the ‘Rules’) whereby the Presidency shall refer the case to a Trial Chamber and transmit to it the Decision Confirming the Charges and the record of the proceedings of the Pre-Trial Chamber;

NOTING the decision of Pre-Trial Chamber A dated 15 July 2021 which confirmed, pursuant to article 61(7)(a) of the Statute, charges presented by the Prosecutor against Mr Paul Gicheru in the case *The Prosecutor v. Paul Gicheru*, to the extent specified at pages 78 to 81 of that decision, and committed him to a Trial Chamber for trial on the charges as confirmed (the ‘Decision Confirming the Charges’);¹

NOTING the decision of Pre-Trial Chamber A dated 15 July 2021 which ordered that the record of the proceedings be transmitted to the Presidency;²

NOTING that the record of the proceedings before Pre-Trial Chamber A and the Decision Confirming the Charges were transmitted to the Presidency by the Registrar on 21 July 2021, in accordance with rule 129 of the Rules;³

NOTING the Presidency’s previous decision assigning judges to divisions and recomposing Chambers, in which it, *inter alia*, dissolved Trial Chamber III;⁴

NOTING further that when composing chambers, the Presidency must balance a number of factors to the extent necessary and possible, and that the guiding principles informing these factors are the applicable statutory framework and the need to ensure the efficient management of the Court’s workload, including in view of the Court’s long-term needs;

¹ Pre-Trial Chamber A, *The Prosecutor v. Paul Gicheru*, Decision on the confirmation of charges against Paul Gicheru, 15 July 2021, ICC-01/09-01/20-153-Conf, pp. 78-81.

² Pre-Trial Chamber A, *The Prosecutor v. Paul Gicheru*, Order requesting the Registry to transmit the record of the proceedings to the Presidency, 15 July 2021, ICC-01/09-01/20-154, p. 3.

³ Registrar, *The Prosecutor v. Paul Gicheru*, Transmission to the Presidency of the record of the proceedings, including the Decision on the confirmation of charges against Paul Gicheru and the Prosecutor’s request of 14 July 2021, 21 July 2021, ICC-01/09-01/20-155-Conf.

⁴ Presidency, *The Prosecutor v. Paul Gicheru*, Decision assigning judges to divisions and recomposing Chambers, 16 March 2021, ICC-01/09-01/20-126, p. 7.

CONSIDERING the current and anticipated overall judicial workload of the Court and the necessity to ensure sound management of the same, the need to expedite proceedings, the workload and individual concerns of the respective judges, their previous involvement in cases, as well as the experience and expertise of each judge;

CONSIDERING rule 165(2) of the Rules of Procedure and Evidence and regulation 66bis(2) of the Regulations of the Court, establishing that a Trial Chamber composed of one judge shall be constituted at trial level with respect to offences against the administration of justice under article 70 of the Statute;⁵

NOTING that the existing judicial resources at the Court are insufficient to meet the needs at trial level of the present case;

HEREBY CONSTITUTES Trial Chamber III as follows:

Judge Miatta Maria Samba;

DECIDES to call Judge Miatta Maria Samba to serve on a full-time basis, in accordance with article 35(3) of the Statute, in view of her extensive experience as trial judge;

DECIDES to refer the case of *The Prosecutor v. Paul Gicheru* to Trial Chamber III;

ORDERS the Registrar, pursuant to rule 130 of the Rules, to transmit the full record of the proceedings in the above mentioned case to Trial Chamber III, including the Decision Confirming the Charges and to notify the present decision to the relevant parties and participants in the case.

⁵ Pre-Trial Chamber A was also constituted of one judge, in accordance with rule 165(2) of the Rules of Procedure and Evidence and regulation 66bis(1) of the Regulations of the Court; see President of the Pre-Trial Division, *The Prosecutor v. Paul Gicheru and Philip Kipkoech Bett*, Decision Constituting a Chamber Composed of one Judge from the Pre-Trial Division to Exercise the Powers and Functions of the Pre-Trial Chamber in the Present case, 2 November 2020, ICC-01/09-01/15-32, p. 4. See also Pre-Trial Chamber A, Decision Severing the Case against Mr Gicheru, 11 December 2020, ICC-01/09-01/15-62.

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

A handwritten signature in black ink, consisting of a large, stylized 'L' and 'C' intertwined, with a horizontal line crossing through the middle. The signature is enclosed within a large, hand-drawn oval.

Judge Luz del Carmen Ibáñez Carranza
Acting President

Dated this 22 July 2021

At The Hague, The Netherlands