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No.: **ICC-01/14-01/21**
Date: **8 September 2021**

PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Single Judge

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF *PROSECUTOR v. MAHAMAT SAID ABDEL KANI***

Public

Prosecution's submissions regarding the conduct of the confirmation hearing

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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Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

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States Representatives

Amicus Curiae

REGISTRY

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Victims and Witnesses Unit

Detention Section

**Victims Participation
and Reparations Section**

Other

I. SUBMISSIONS

1. Pursuant to the order of the Single Judge (“Order”),¹ the Prosecution submits observations regarding the conduct of the confirmation hearing.

A. Proposed sequence of the confirmation hearing

2. The Prosecution recommends that the confirmation hearing take place in the following sequence:

- a. Opening of the hearing by the Judges and reading of the charges pursuant to rule 122(1) of the Rules of Evidence and Procedure (“Rules”).
- b. Observations and responses pursuant to rule 122.
- c. Submissions on the merits by the Prosecution.²
- d. Submissions on the merits by Legal Representatives of Victims.³
- e. Submissions on the merits by the Defence.⁴
- f. Time for questioning by the Judges.⁵
- g. Closing statement by the Prosecution.⁶
- h. Closing statement by Legal Representatives of Victims.

¹ E-mail from PTC II dated 2 September 2021 at 15:31.

² Rule 122(7).

³ Rule 122(7).

⁴ Rule 122(8).

⁵ ICC-02/05-01/20-378, para. 23.

⁶ Rule 122(8).

h. Closing statement by the Defence.⁷

3. The Prosecution respectfully requests the allocation of four hours for its oral submissions on the merits (excluding the closing statement). The Prosecution intends to use this time to make submissions regarding, *inter alia*, contextual elements of article 7 and article 8, the modes of liability and the crimes set out in the Document Containing the Charges (“DCC”) and further detailed in the Pre-Confirmation Brief (“PCB”). Assuming a sitting schedule of three standard sessions a day, the Prosecution would therefore be able to complete its oral submissions by the end of the first session on 13 October 2021.

4. For its presentations, the Prosecution intends to use visual aids such as PowerPoint slides and annotated maps.

5. Additionally, the Prosecution will require 45 minutes for any final statement pursuant to rule 122(8) of the Rules. The Prosecution notes, however, that the time required for final observations may vary based on the nature and extent of the issues that arise during the hearing. The Prosecution recommends that as per prior practice, final observations by all parties and participants be limited to responding to arguments raised during the hearing and/ or any additional questions from the Judges. No further response in writing on the merits should be considered necessary or permitted at this stage of the proceedings, including *after* the confirmation hearing.

B. Objections and observations related to the proper conduct of the proceedings

6. Barring unforeseen circumstances, the Prosecution will not raise objections or observations related to the proper conduct of the proceedings pursuant to rule 122(3).

⁷ Rule 122(8).

7. The Prosecution does not intend to call any witnesses during the confirmation hearing. If the Defence intends to do so, the Prosecution should be provided adequate notice and a detailed summary of the anticipated testimony should be disclosed at least 15 days prior to the confirmation hearing.

8. Finally, pursuant to rule 121(6), the Prosecution requests that the Defence notify the Prosecution of its intent to raise the existence of an alibi, or raise a ground for excluding the criminal responsibility as provided for in article 31(1) of the Statute, at least 15 days prior to the confirmation hearing.

A handwritten signature in blue ink, consisting of a stylized 'K' followed by a horizontal line and a dot.

Karim A. A. Khan QC, Prosecutor

Dated this 8th day of September 2021
At The Hague, The Netherlands