

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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No.: **ICC-01/14-01/21**

Date: **5 February 2021**

PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Single Judge

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

Confidential

with Public Annex A and Confidential Annex B

**Prosecution's Submissions on the Modalities and Procedure for Evidence
Disclosure**

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
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REGISTRY

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**Victims Participation and Reparations
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Other

I. INTRODUCTION

1. The Office of the Prosecutor ("Prosecution") hereby provides submissions regarding the modalities of evidence disclosure pursuant to the Single Judge's order of 29 January 2021 following the first appearance of Mr Mahamat Said Abdel Kani ("SAID").¹

II. CONFIDENTIALITY

2. In accordance with regulation 23*bis*(2) of the Regulations of the Court, this filing and Annex B are classified as "confidential" since they refer to previous filings of the same designation and so contain sensitive information not available to the public. A public redacted version will be filed as soon as practicable.

III. SUBMISSIONS

A. Adoption of protocols governing disclosure

1. The E-court Protocol

3. The Prosecution requests the Chamber to adopt the *Unified Technical protocol for the provision of evidence, witness and victims information in electronic form* ("E-court Protocol") currently applied in the case against *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona* ("Yekatom & Ngaïssona") in order to govern the disclosure of evidence between the parties and its communication to the Pre-Trial Chamber II ("Chamber") in the case against SAID.² This protocol is set out in Annex A.

4. Adopting this protocol will ensure consistency and coherence within the CAR II situation. While the situation is divided into two parallel investigations, the evidence

¹ ICC-01/14-01/21-T-002-CONF-ENG ET 29-01-2021, p.12, l.5-8.

² ICC-01/14-01/18-64-Anx; ICC-01/14-01/18-64-Conf, para.11.

for both the Anti-Balaka and the Seleka Investigations are registered and processed in one database. In addition, the investigation teams have collected evidence of overlapping relevance to both investigations and the ensuing cases. The E-court Protocol should be the appropriate medium for disclosure.

2. The Protocol on Redactions

5. The Prosecution proposes the continued implementation of the redactions regime adopted by the Chamber in its Decision on the 'Prosecution's request for the adoption of the redactions regime applied in the case against *Yekatom & Ngaissona* for the entire CAR II situation' dated 20 January 2020 and set out in Annex B to these submissions.³ The continued use of the current redactions regime serves to enhance the expeditiousness and the predictability of proceedings.⁴ The Prosecution has already applied this protocol in the Seleka Investigation including to some of the material anticipated to be disclosed in the case against SAID.

B. Status Conferences and timing of disclosure

6. The Prosecution is at the Chamber's disposal to participate in status conferences in relation to disclosure and related matters which could increase efficiency in the conduct of the proceedings leading to the confirmation of the charges hearing.⁵

7. The Prosecution is ready to start disclosing evidence to the Defence as soon as the modalities of disclosure have been established and a permanent Counsel appointed.⁶

³ ICC-01/14-105-US-Exp.

⁴ ICC-01/14-105-US-Exp, para.6.

⁵ Chambers Practice Manual (2019), p.5, para.19.

⁶ ICC-01/14-01/21-7-US-Exp.

IV. RELIEF SOUGHT

8. For the above reasons, the Prosecution requests that the E-court Protocol applicable in the case against *Yekatom & Ngaissona* as well as the Protocol on Redactions granted for the CAR IIA Investigation be adopted by the Single Judge in the case against SAID.



Fatou Bensouda, Prosecutor

Dated this 5th day of February 2021

At The Hague, The Netherlands