

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

PRE-TRIAL CHAMBER II

**Before: Judge Rosario Salvatore Aitala, Presiding
Judge Antoine Kesia-Mbe Mindua
Judge Tomoko Akane**

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

**IN THE CASE OF
THE PROSECUTOR v.
*MAHAMAT SAID ABDEL KANI***

Public Document

**OPCV Observations on the conduct of the
confirmation of charges hearing**

Source: Office of Public Counsel for Victims

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 Eric MacDonald

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Mr Dov Jacobs

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

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Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I. PROCEDURAL HISTORY

1. On 16 April 2021, the Single Judge, acting on behalf of Pre-Trial Chamber II (the “Chamber”), issued the “Decision establishing the principles applicable to victims’ applications for participation”.¹

2. On 9 July 2021, the Single Judge, acting on behalf of the Chamber, issued the “Decision on legal representation of victims and related matters”, *inter alia*, “assign[ing] the OPCV to represent the collective interests of victims, with a view to protect the interests of, and provide assistance and support to all applicant victims pending completion of the transmission of their applications to the Chamber”.²

3. On 2 September 2021, by e-mail, the Chamber instructed the parties and participants to submit by 8 September 2021 their observations on the organisation of the confirmation of charges hearing scheduled to commence on 12 October 2021.³

II. SUBMISSIONS ON THE CONDUCT OF THE CONFIRMATION OF CHARGES HEARING

4. Absent a decision on victims’ participation and their legal representation in the present proceedings, Counsel from the Office of Public Counsel for Victims (the “OPCV” or the “Office”) – assigned to represent the collective interests of victims in the present case⁴ – hereby files the following submissions on the organisation of the confirmation of charges hearing.

¹ See the “Decision of on the principles applicable to victims’ applications for participation” (Pre-Trial Chamber II, Single Judge), [No. ICC-01/14-01/21-56](#), 16 April 2021.

² See the “Decision on legal representation of victims and related matters” (Pre-Trial Chamber II, Single Judge), [No. ICC-01/14-01/21-119](#), 9 July 2021, para. 30. See also the “Notification pursuant to the ‘Decision on legal representation of victims and related matters’ (No. ICC-01/14-01/21-119)”, [No. ICC-01/14-01/21-121](#), 12 July 2021.

³ See the email of Pre-Trial Chamber II entitled “Said - organisation of confirmation hearing”, dated 2 September 2021, at 15.31.

⁴ See the “Decision on legal representation of victims and related matters”, *supra* note 2, para. 30.

5. Counsel notes that 13 Group A applications have already been transmitted to the Chamber⁵ and that more victims' applications are to be transmitted in the near future.⁶ Accordingly, a number of victims will most likely be allowed to participate at the confirmation of the charges hearing.

6. Following the established jurisprudence of the Court⁷ – authorising, *inter alia*, the legal representatives to make opening and closing statements at the confirmation hearing in accordance with rule 89(1) of the Rules of Procedure and Evidence (the “Rules”) – Counsel requests one hour to cover both the opening and the closing statements.

7. Pursuant to the practice of this Chamber⁸ – granting the legal representatives the possibility to make submissions on the admissibility and/or relevance of any item of evidence – Counsel reserves her right to intervene on this issue if necessary to protect the interests of the victims, and subject to the Prosecution's and Defence's evidentiary submissions.

8. Moreover, following the constant jurisprudence of the Court,⁹ Counsel requests 30 minutes to present oral requests, responses and submissions on any preliminary matters that may affect the interests of victims.

⁵ See the “First Registry Transmission of Group A Applications for Victim Participation in Participation in Pre-Trial Proceedings », [No. ICC-01/14-01/21-151](#), 27 August 2021.

⁶ See the “First Registry Assessment Report on Victim Applications for Participation in Pre-Trial Proceedings”, [No. ICC-01/14-01/21-152](#), 27 August 2021, para. 15.

⁷ See e.g., the “Decision regarding the Registry's First Assessment Report, legal representation, and the victims' procedural position” (Pre-trial Chamber II), [No. ICC-02/05-01/20-314](#), 22 March 2021, para. 36; the “Decision on victims' participation in the pre-trial proceedings and related issues” (Pre-Trial Chamber I, Single Judge), [No. ICC-02/11-02/11-83](#), 11 June 2014, para. 30; the “Corrigendum to the Second decision on victims' participation at the confirmation of charges hearing and in the related proceedings” (Pre-Trial Chamber I, Single Judge), [No. ICC-02/11-01/11-384](#), 6 February 2013, para. 51. See also the “Decision on Victims' Participation at the Confirmation of Charges Hearing and in the Related Proceedings” (Pre-Trial Chamber II, Single Judge), [No. ICC-01/09-01/11-249](#), 5 August 2011, paras. 86-89, and the “Decision on the 138 applications for victims' participation in the proceedings” (Pre-Trial Chamber I, Single Judge), [No. ICC-01/04-01/10-351](#), 11 August 2011, para. 42.

⁸ See the “Decision regarding the Registry's First Assessment Report, legal representation, and the victims' procedural position”, *supra* note 7, para. 37.

⁹ See e.g., the “Decision on victims' participation in the pre-trial proceedings and related issues” (Pre-Trial Chamber I, Single Judge), [No. ICC-02/11-02/11-83](#), 11 June 2014, paras. 28-31; the “Corrigendum to the Second decision on victims' participation at the confirmation of charges hearing and in the related

9. Lastly, Counsel reserves her right to make additional submissions on the conduct of the confirmation of charges hearing, based on subsequent decisions to be issued by the Chamber regarding victims' participation in the present proceedings.

Respectfully submitted.



Sarah Pellet
Counsel

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

proceedings" (Pre-Trial Chamber I, Single Judge), [No. ICC-02/11-01/11-384](#), 6 February 2013, paras. 49-52. See "Decision on Victims' Participation at the Confirmation of Charges Hearing and in the Related Proceedings" (Pre-Trial Chamber II, Single Judge), [No. ICC-01/09-01/11-249](#), 5 August 2011, paras. 86-89. See the "Decision on the 138 applications for victims' participation in the proceedings" (Pre-Trial Chamber I, Single Judge), [No. ICC-01/04-01/10-351](#), 11 August 2011, paras. 41-43.