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

Date: **13 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

with Confidential Annexes A and B

Prosecution's Communication of the Disclosure of Evidence on 13 September 2021

Source: Office of the Prosecutor

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

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Victims and Witnesses Unit

Detention Section

**Victims Participation
and Reparations Section**

Other

I. INTRODUCTION

1. The Office of the Prosecutor (“Prosecution”) submits this communication regarding the disclosure of evidence.

II. CONFIDENTIALITY

2. The Annexes, appended to this filing, are classified as “Confidential” as they relate to evidence disclosed *inter partes* that should not be released to the public.

III. SUBMISSIONS

3. On 30 August 2021, the Prosecution disclosed to the Defence of Mahamat Said Abdel Kani “Pre-Confirmation INCRIM package 045” containing 40 items and “Pre-Confirmation Other package 001” containing 56 items.

4. The disclosure package “Pre-Confirmation INCRIM package 045” consists of materials relevant to OCRB, CEDAD and Chapeau elements of articles 7 and 8 of the Rome Statute that are classified as incriminatory evidence. Included are the statements of four witnesses previously screened whose screenings have already been disclosed and are part of the List of Evidence (“LoE”),¹ as well as three documents related to P-0547 now re-disclosed with lesser redactions. Further, in this package, the materials of additional eight witnesses who have been interviewed as part of the Prosecution’s ongoing investigation are included.² However, the Prosecution will not rely upon these materials for the purpose of the confirmation of charges hearing as they were collected and/or registered after the disclosure deadline of 16 August 2021. They are

¹ Prosecution confirmation witnesses P-1278 (*see* para. 309, fn. 831 of the Pre-Confirmation Brief), P-1743, P-2295 and P-2300 (*see* para. 160 of the Pre-Confirmation Brief).

² Witnesses P-3047, P-2815, P-2198, P-2284, P-2512, P-3027, P-3063 and P-3052.

nevertheless disclosed as incriminatory evidence as the Prosecution reserves itself the right to rely on them in a future trial should charges be confirmed.

5. Further, in this package, the materials of witness P-2815, P-3047 and two annexes of witnesses P-0889 and P-1282 are disclosed. These were registered before/ or very close to the deadline and were accidentally overlooked in the disclosure review process. The Prosecution will also not rely on these materials for the confirmation hearing but reserves itself the right to rely on them in future trial should the charges be confirmed.

6. The disclosure package “Pre-Confirmation Other package 001” consists of materials that were shown to witnesses or commented by witnesses during their interviews including documents provided by other witnesses. The Prosecution provides these items for the sake of completeness as part of its ongoing review of the evidence and under the legal classification of “Other” as they do not obviously include information material to the preparation of the Defence under rule 77 of the Rules of Procedure and Evidence.



Karim A. A. Khan QC, Prosecutor

Dated this 13th day of September 2021
At The Hague, The Netherlands