

Situation in the Republic of Mali

The Prosecutor v. Ahmad Al Faqi Al Mahdi

ICC-01/12-01/15

Question and Answers on the Al Mahdi trial

WHO IS MR AL MAHDI AND WHY IS HE ON TRIAL BEFORE THE ICC?

It is alleged that Mr Al Mahdi, born in Agoune, 100 kilometres west of Timbuktu, Mali, was an active personality in the context of the occupation of Timbuktu. He allegedly was a member of Ansar Eddine, a movement associated with Al Qaeda in the Islamic Maghreb ("AQIM"), working closely with the leaders of the two armed groups and in the context of the structures and institutions established by them. It is alleged that, until September 2012, he was the head of the "Hisbah" (a body set up to uphold virtue and prevent vice), set up in April 2012. He was also associated with the work of the Islamic Court of Timbuktu and involved in the execution of its decisions.

Mr Al Mahdi is being prosecuted for the alleged deliberate destruction of the following historical and religious monuments in Timbuktu, Mali, between the approximate dates of 30 June 2012 and 11 July 2012: 1) the mausoleum Sidi Mahamoud Ben Omar Mohamed Aquit, 2) the mausoleum Sheikh Mohamed Mahmoud Al Arawani, 3) the mausoleum Sheikh Sidi Mokhtar Ben Sidi Muhammad Ben Sheikh Alkabir, 4) the mausoleum Alpha Moya, 5) the mausoleum Sheikh Sidi Ahmed Ben Amar Arragadi, 6) the mausoleum Sheikh Muhammad El Mikki, 7) the mausoleum Sheikh Abdoul Kassim Attouaty, 8) the mausoleum Ahmed Fulane, 9) the mausoleum Bahaber Babadié, and 10) the door of the Sidi Yahia mosque.

Mr Al Mahdi was surrendered to the International Criminal Court ("ICC" or "the Court") on 25 September 2015 following the issuance of an arrest warrant against him on 18 September 2015. The confirmation of charges hearing was held on 1 March 2016, after which ICC judges committed the case to trial.

WILL MR AL MAHDI ADMIT GUILT?

On 1 March 2016, during the confirmation of charges hearing before the ICC judges and in presence of his Counsel, Mr Al Mahdi expressed his intention to make an admission of guilt at trial. This possibility is provided for in article 65 of the Rome Statute, the founding treaty of the ICC. It remains to be seen whether Mr Al Mahdi will actually make an admission of guilt at the opening of the trial on 22 August 2016.

HOW WILL THE TRIAL BE CONDUCTED?

Due to the announced intention of Mr Al Mahdi to make an admission of guilt, the trial is expected to last about a week.

The Office of the Prosecutor will have three hours to present its case and a maximum of nine hours for the examination of its three witnesses; the Legal Representative of victims will then have one hour to present the victims' views and concerns, and the Defence will have one hour and a half to present its submissions. In addition, the judges have agreed that the Defence may request the introduction at a later stage of two Defence witnesses' statements in writing relating to the possible sentence. The parties and participants' presentations will cover both topics related to the trial and possible sentencing, since the judgment and the possible sentence will be issued together in due course following the hearings.

If the accused makes an admission of guilt, the Chamber would then question the accused to confirm whether: (a) the accused understands the nature and consequences of the admission of guilt and (b) the admission of guilt is voluntarily made after sufficient consultation with his Defence Counsel. If the accused does not make an admission of guilt, the hearing would be adjourned and the trial will resume at a later date.

WILL WITNESSES BE HEARD DURING THE TRIAL?

Three Prosecution witnesses will testify before the Chamber, including one member of the OTP staff and two experts.

In addition, the judges have agreed that the Defence may request the introduction at a later stage of two Defence witnesses' statements in writing relating to the possible sentence.

WHAT SENTENCE COULD THE ACCUSED INCUR?

It will be up to the Trial Chamber to determine whether Mr Al Mahdi is innocent or guilty and, in the event of a conviction, impose a sentence of imprisonment, to which may be added a fine or a forfeiture of proceeds, property and assets derived directly or indirectly from that crime. Imprisonment cannot generally exceed 30 years.

IF CONVICTED, WHERE WOULD THE ACCUSED SERVE HIS SENTENCE?

Individuals convicted of crimes falling within the ICC's jurisdiction do not serve their sentence in the ICC's Detention Centre in The Hague, the Netherlands, but in a national establishment of a State which has agreed to receive the convicted. The Court has concluded agreements with a number of States to receive persons convicted by the Court and to serve their sentences in their prisons.

Conditions of imprisonment shall be governed by the provisions of national law of the State responsible for the execution of the sentence and shall be consistent with widely accepted international treaty standards governing treatment of prisoners.

CAN THE PARTIES APPEAL THE JUDGMENT?

According to the Rome Statute, both the Prosecution and the Defence have the right to appeal the Trial Chamber's judgment (finding the accused guilty or innocent). Appeals are considered by the Appeals Chamber composed of five judges, who are not the same as those who rendered the judgment. The Appeals Chamber may confirm, amend or reverse the judgment subject to appeals.

ARE THERE VICTIMS PARTICIPATING IN THE TRIAL AND IF SO HOW? WILL THESE VICTIMS RECEIVE REPARATIONS?

Nine victims were allowed to participate in the trial in order to present their views and concerns before the Court. They are represented by a Counsel, their Legal Representative, Maître Mayombo Kassongo.

Following the trial, and only if Mr Al Mahdi would be convicted by the judges, the Trial Chamber may order reparations for the victims for the crimes of which he was found guilty. It is however up to the judges to decide whether or not an order for reparations should be granted and to indicate the forms of the reparations to be granted to the victims.