

Situation in Central African Republic II

Update: September 2019

The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona

Opening of the confirmation of charges hearing,

19 September 2019

WHAT IS A "CONFIRMATION OF CHARGES HEARING"?

The confirmation of charges hearing is not a trial. The confirmation of charges hearing is a public hearing during which a Pre-Trial Chamber of the International Criminal Court (ICC) decides whether or not to confirm all or any of the charges brought by the Prosecutor against the suspects – Mr Yekatom and Mr Ngaïssona, in this case. If any of the charges are confirmed, the suspects are committed for trial before a Trial Chamber.

At the hearing, in the presence of the suspects and their Counsel, the Prosecutor is required to support each of the charges with sufficient evidence to establish substantial grounds to believe that Mr Yekatom and Mr Ngaïssona committed the crimes with which they are charged. The Prosecution may rely on documentary or summary evidence and/or call witnesses and experts. In this case, no witnesses or experts will be called by the parties at this stage of the proceedings.

The hearing will take place before Pre-Trial Chamber II, composed of Judge Antoine Kesia-Mbe Mindua (Presiding Judge), Judge Tomoko Akane and Judge Rosario Salvatore Aitala. The Chamber will hear oral submissions in turn from the Prosecutor, the Legal Representatives of the Victims and the Defence. The hearing is scheduled for 19 to 27 September 2019.

WHAT ARE MR YEKATOM AND MR NGAÏSSONA SUSPECTED OF?

Alfred Yekatom is alleged to be responsible for war crimes and crimes against humanity committed in various locations in the Central African Republic, specifically Bangui, Boeïng and the Lobaye Prefecture, between 5 December 2013 and at least August 2014, namely: murder, torture and cruel treatment, mutilation, intentional attack against the civilian population, intentional attack against buildings dedicated to religion, enlistment of children under the age of 15 years and their use to participate actively in hostilities, displacement of the civilian population and destruction of the adversary's property, as war crimes; and murder, deportation or forcible transfer of population, imprisonment or other severe deprivation of physical liberty, torture, persecution and other inhumane acts, as crimes against humanity.

Patrice-Edouard Ngaïssona is alleged to be responsible for war crimes and crimes against humanity committed in various locations in the Central African Republic between at least 5 December 2013 and at least December 2014, namely: murder and attempted murder, torture, cruel treatment, mutilation, outrages upon personal dignity, intentionally directing attacks against the civilian population, intentionally directing attacks against buildings dedicated to religion, pillaging, rape and attempted rape, enlistment of children under the age of 15 years and their use to participate actively in hostilities, displacement of the civilian population and destruction of the property of an adversary, as war crimes; and murder and attempted murder, extermination, deportation or forcible transfer of population, imprisonment or other severe deprivation of physical liberty, torture, rape and attempted rape, persecution and other inhumane acts, as crimes against humanity.

WILL VICTIMS BE PARTICIPATING IN THIS HEARING? CAN THEY REQUEST REPARATIONS?

The judges have given 1085 victims permission to participate in the hearing. They will not be in the courtroom but will be represented by their legal representatives, Mr Dmytro Suprun, Mr Abdou Dangabo Moussa, Ms Elisabeth Rabesandratana, Mr Yaré Fall, Ms Marie-Edith Douzima-Lawson, Ms Christine Priso Ouamballo and Ms Paolina Massidda.

The legal representatives of victims will attend the hearing and make opening and closing statements, explaining why the victims wish to participate in the proceedings and how their personal interests are affected. The legal representatives will also be able to make submissions on matters of fact and law which might affect the interests of their clients.

At this stage of the judicial process, there will not be any decision in relation to reparations. Victims can seek reparations if the case is committed for a trial and the accused are convicted.

WHO IS DEFENDING MR YEKATOM AND MR NGAÏSSONA?

Ms Mylène Dimitri and Mr Peter Robinson are Counsel for the defence of Alfred Yekatom. Mr Geert-Jan Alexander Knoops is Counsel for the defence of Patrice-Edouard Ngaïssona. Defence Counsel may object to the charges, respond to the Prosecutor's evidence and present exculpatory evidence.

WHO PAYS FOR THEIR DEFENCE?

The ICC bears the cost of their defence, in accordance with the legal aid scheme. Pending verification by the Court, Mr Yekatom and Mr Ngaïssona have been provisionally found indigent, meaning that they cannot afford to pay for their defence.

WHAT ARE THE POSSIBLE OUTCOMES OF THE CONFIRMATION HEARING?

Within 60 days of the hearing, the Pre-Trial Chamber will deliver a decision, in which it may:

- confirm those charges for which the Chamber has determined that there is sufficient evidence, and commit one or two of the suspects to a Trial Chamber for trial;
- decline to confirm those charges for which it has determined that there is insufficient evidence and stop the proceedings against one or two of the suspects;
- adjourn the hearing and request the Prosecutor to provide further evidence, to conduct further investigations or to amend any charge for which the evidence submitted appears to establish that a crime other than the one charged was committed, for one or two of the suspects.

The Defence and the Prosecutor are not automatically entitled to appeal this decision but they can request authorisation from the Pre-Trial Chamber to do so.

WHEN WILL THE PRE-TRIAL CHAMBER MAKE ITS DECISION?

The ICC Pre-Trial Chamber will deliver its written decision within 60 days of the date on which the confirmation hearing ends.

WHAT WILL HAPPEN IF THE CHARGES ARE CONFIRMED? AND WHAT IF THEY ARE NOT CONFIRMED?

If the Pre-Trial Chamber finds that there is sufficient evidence to support the charges, it will commit the suspects for trial. The Presidency of the Court will constitute a Trial Chamber responsible for conducting the subsequent phase of the proceedings and composed of three judges other than those who sat on the Pre-Trial bench. Promptly after it is constituted, the Trial Chamber will hold status conferences, confer with the parties and participants in order to set the date of the trial and adopt the procedures necessary to facilitate the fair and expeditious conduct of the proceedings.

On the contrary, if none of the charges are confirmed, and subject to possible appeal, the proceedings may end at the pre-trial stage.

WHERE ARE THE SUSPECTS CURRENTLY BEING DETAINED?

Since their transfer to the Court, the suspects have been detained at the ICC Detention Centre in Scheveningen, The Hague, The Netherlands. The Detention Centre meets the highest international human rights standards for the treatment of detainees. Detained persons are presumed by the Court to be innocent until proven guilty beyond reasonable doubt.

WHO ARE THE JUDGES SITTING IN THIS CASE?

Pre-Trial Chamber II is composed of Judge Antoine Kesia-Mbe Mindua (DRC), Judge Tomoko Akane (Japan) and Judge Rosario Salvatore Aitala (Italy).

The Judges of the ICC are persons of high moral character, impartiality and integrity who possess the qualifications required in their respective States for appointment to the highest judicial offices. All have extensive experience relevant to the Court's judicial activity. They are elected by the Assembly of States Parties on the basis of their established competence in criminal law and procedure and in relevant areas of international law such as international humanitarian law and human rights law.