

Situation in the Central African Republic II

Update: October 2021

The Prosecutor v. Mahamat Said Abdel Kani

Confirmation of charges hearing in the Said case, 12-14 October 2021

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 a suspect – Mahamat Said Abdel Kani, in this case. If any of the charges are confirmed, the suspect is committed for trial before a Trial Chamber.

At the hearing, in the presence of the suspect and his Counsel, the Prosecution is required to support each of the charges with sufficient evidence to establish substantial grounds to believe that Mr Said committed the crimes with which he is charged. The hearing will take place before Pre-Trial Chamber II, composed of Judge Rosario Salvatore Aitala (Presiding judge), Judge Antoine Kesia-Mbe Mindua and Judge Tomoko Akane. The Chamber will hear oral submissions in turn from the Prosecution, the Legal Representative of Victims and the Defence. The hearing is [scheduled](#) from 12 to 14 October 2021 at the seat of the Court in The Hague, The Netherlands.

WHO IS MR SAID AND WHAT IS HE SUSPECTED OF?

Mahamat Said Abdel Kani, also known as "Mahamat Said Abdel Kain" and "Mahamat Saïd Abdelkani", is a national of the Central African Republic (CAR), born on 25 February 1970 in Bria. He is alleged to have been a Seleka commander. Mr Said was surrendered to the Court on 24 January 2021 on account of an ICC warrant of arrest issued under seal on 7 January 2019.

Mr Said is suspected of the following war crimes and crimes against humanity allegedly committed in Bangui (CAR) in 2013:

- crimes against humanity (imprisonment or other severe deprivation of liberty; torture; persecution; and other inhumane acts); and
- war crimes (torture and cruel treatment).

Mr Said is suspected of having committed these crimes jointly with others or ordered or induced these crimes or aided, abetted or otherwise assisted in the commission of these crimes; or in any other way contributed to the commission of these crimes. When issuing the warrant of arrest, the Single Judge of Pre-Trial Chamber II, Rosario Salvatore Aitala, found that there were reasonable grounds to believe that an armed conflict not of an international character was ongoing on the territory of the CAR from at least March 2013 until at least January 2014 between the Seleka – a coalition of armed groups predominantly composed of Muslims opposed to former president François Bozizé – and the Anti-Balaka – a movement opposed to the Seleka and supportive of former president Bozizé. Moreover, the Single Judge found reasonable grounds to believe that, from at least March 2013 until at least January 2014, a widespread and systematic attack was conducted by members of the Seleka against the civilian population and those perceived to be collectively responsible for, complicit with or supportive of the former Bozizé government and, later, of the Anti-Balaka.

WILL VICTIMS BE PARTICIPATING IN THIS HEARING?

Yes, the judges have given 27 victims permission to participate in the hearing. The judges have appointed a counsel from the Court's Office of Public Counsel for Victims to act as the common legal representative for the authorised victims. Their interests will be represented by their common legal representative, Ms Sarah Pellet, who will attend the hearing and make oral submissions before the judges to present their arguments on the merits.

WHO IS DEFENDING MR SAID?

Ms Jennifer Naouri is the Counsel for the defence of Mr Said. Defence Counsel may object to the charges, respond to Prosecution evidence and present exculpatory evidence.

WHO PAYS FOR MR SAID'S DEFENCE?

The ICC bears the cost of the Defence of the suspect, in accordance with the legal aid scheme. Pending verification by the Court, Mr Said has been provisionally found indigent, meaning that he cannot afford to pay for his defence.

WHAT ARE THE POSSIBLE OUTCOMES OF THE CONFIRMATION HEARING?

The ICC Pre-Trial Chamber will deliver its written decision within 60 days of the date on which the confirmation hearing ends. 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 the suspect to trial before a Trial Chamber;
- decline to confirm those charges for which it has determined that there is insufficient evidence and stop the proceedings against Mr Said;
- 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 a crime other than the one charged was committed .

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

WHAT WILL HAPPEN IF THE CHARGES ARE CONFIRMED?

If the Pre-Trial Chamber finds that there is sufficient evidence to support the charges, it will commit Mr Said 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. The Chamber will rule on several preliminary issues, including the language(s) to be used at trial, and the timing and the manner of disclosure of evidence.

WHAT WILL HAPPEN IF THE CHARGES ARE NOT CONFIRMED?

If the Pre-Trial Chamber finds that there is insufficient evidence to support the charges, it will stop the proceedings against Mr Said.

Such a decision does not prevent the Prosecution from presenting a subsequent request for confirmation of the charges against Mr Said on the basis of additional evidence.

WHERE IS MR SAID CURRENTLY BEING DETAINED?

Since his transfer to the Court on 24 January 2021, Mr Said has 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 Rosario Salvatore Aitala (Presiding judge, Italy), Judge Antoine Kesia-Mbe Mindua (Democratic Republic of the Congo) and Judge Tomoko Akane.(Japan).

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.