

Situation in Mali

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The Prosecutor v. Ahmad Al Faqi Al Mahdi

ICC-01/12-01/15

Confirmation of charges hearing opens in the Ahmad Al Faqi Al Mahdi case, 1 March 2016

The confirmation of charges hearing in the case *The Prosecutor v. Ahmad Al Faqi Al Mahdi* opens on 1 March 2016 before Pre-Trial Chamber I of the International Criminal Court (ICC). The confirmation of charges hearing is a public hearing, after which the Chamber will decide whether to confirm all or any of the charges brought against Al Mahdi. If the charges are confirmed, he will be committed for trial. Pre-Trial Chamber I is composed of Judge Joyce Aluoch (Kenya), Presiding, Judge Cuno Tarfusser (Italy) and Judge Péter Kovács (Hungary).

WHO IS AHMAD AL FAQI AL MAHDI AND WHAT CRIMES IS HE CHARGED WITH?

It is alleged that Mr Al Mahdi was an active personality in the context of the occupation of Timbuktu. He allegedly was a member of Ansar Eddine, working closely with the leaders of two armed groups and in the context of the structures and institutions established by them. It is alleged that, until September 2012, he was at the head of the "Hisbah" (body set up to uphold public morals and prevent vice), operational from May 2012. He was also associated with the work of the Islamic Court of Timbuktu and has participated in executing its decisions. Specifically, it is alleged that he was involved in the destruction of the buildings mentioned in the charges.

The Chamber found that the evidence presented by the Prosecutor establish reasonable grounds to believe that Mr Al Mahdi is criminally responsible for having committed, individually and jointly with others, facilitated or otherwise contributed to the commission of war crimes alleged by the Prosecutor regarding intentionally directing attacks against the following buildings: 1) the mausoleum Sidi Mahmoud 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 Micky, 7) the mausoleum Cheick Abdoul Kassim Attouaty, 8) the mausoleum Ahamed Fulane, 9) the mausoleum Bahaber Babadié, and 10) Sidi Yahia mosque.

WHAT IS A CONFIRMATION OF CHARGES HEARING? IS IT A TRIAL?

No, the confirmation of charges hearing is not a trial; nor is it a mini trial. Rather, it is a public hearing during which the ICC's Pre-Trial Chamber will decide whether or not there is enough evidence to proceed to a trial. The judges of the Pre-Trial Chamber consider the charges and decide if there is enough evidence to support each of the allegations. The Pre-Trial Chamber decides whether or not a trial should be held before a Trial Chamber composed of three other judges. The Pre-Trial Chamber does not make a decision about the suspects' innocence or guilt.

WHAT WILL HAPPEN DURING THE CONFIRMATION OF CHARGES HEARING?

During this hearing, the Prosecution must provide enough evidence, for each of the charges, to establish substantial grounds to believe that the suspects committed each of the crimes charged. Mr Al Mahdi will be represented by his counsel, Mohamed Aouini, who may object to the charges and will respond to the Prosecutor's presentation of evidence.

WHEN WILL THE PRE-TRIAL CHAMBER RENDER ITS DECISION AND WHICH DECISION CAN THE CHAMBER ISSUE?

The hearing is scheduled to take place on 1-2 March 2016. The Judges may decide to grant the parties and participants additional time to complete, in writing, their oral presentations. In accordance with Regulation 53 of the Regulations of the Court, the Pre-Trial Chamber shall deliver its written decision within 60 days from the date the confirmation hearing ends. The Pre-Trial Chamber may then:

Confirmation of charges hearing in the Al Mahdi case

- confirm those charges in relation to which it has determined that there is sufficient evidence. In that event, the case will go to trial before a Trial-Chamber;
- decline to confirm those charges in relation to which it has determined that there is insufficient evidence and adjourn the proceedings against Mr Al Mahdi;
- adjourn the hearing and request the Prosecutor to provide further evidence or conduct further investigations or to amend any charge for which the evidence submitted appears to establish that a crime other than the crime charged was committed.

The Defence and the Prosecution cannot directly appeal this decision however they can request authorisation from the Pre-Trial Chamber to appeal it.