



Original: **English**

No.: **ICC-Pres-01/16**

Date: **2 May 2016**

**THE PRESIDENCY**

**Before:**                    **Judge Silvia Fernández de Gurmendi, President**  
                                  **Judge Joyce Aluoch, First Vice-President**  
                                  **Judge Kuniko Ozaki, Second Vice-President**

**Public**

**Decision constituting Trial Chambers VIII and IX and referring to them the cases of  
*The Prosecutor v. Ahmad Al Faqi Al Mahdi and The Prosecutor v. Dominic Ongwen***

**Decision to be notified in accordance with regulation 31 of the *Regulations of the Court* to:****The Office of the Prosecutor**

Ms Fatou Bensouda

Mr James Stewart

**The Office of Public Counsel for  
Victims**

Ms Paolina Massidda

**The Office of Public Counsel for the  
Defence**

Mr Xavier-Jean Xeïta

**REGISTRY**

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**Registrar**

Mr Herman von Hebel

**Other**

Pre-Trial Chamber I

Pre-Trial Chamber II

THE PRESIDENCY of the International Criminal Court notes the decision of Pre-Trial Chamber II dated 23 March 2016 which, *inter alia*, confirmed, pursuant to article 61(7)(a) of the Rome Statute of the International Criminal Court (“Statute”), certain of the charges presented by the Prosecutor against Dominic Ongwen, to the extent specified at pages 71-104 of that decision, and committed him for trial on the charges as confirmed (“Decision Confirming the Charges in *Ongwen*”).<sup>1</sup>

The Presidency notes also the decision of Pre-Trial Chamber I dated 24 March 2016 which, *inter alia*, confirmed, pursuant to article 61(7)(a) of the Statute, the charges presented by the Prosecutor against Ahmad Al Faqi Al Mahdi to the extent specified at pages 21-27 of that decision and committed him for trial on the charges as confirmed (“Decision Confirming the Charges in *Al Mahdi*”).<sup>2</sup>

The Presidency notes article 61(11) of the Statute, pursuant to which it shall constitute a Trial Chamber once the charges have been confirmed, which shall be responsible for the conduct of subsequent proceedings. The Presidency further notes rule 130 of the Rules of Procedure and Evidence (“Rules”) whereby it shall refer the case to a Trial Chamber and transmit to it the decision confirming the charges and the records of the proceedings of the Pre-Trial Chamber.

The Presidency notes that, pursuant to an instruction from the Single Judge of Pre-Trial Chamber I dated 5 April 2016 in the case of *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, the record of the proceedings before Pre-Trial Chamber I and the Decision Confirming the Charges in *Al Mahdi* were transmitted to the Presidency, by the Registrar, on 6 April 2016, in accordance with rule 129 of the Rules.<sup>3</sup>

The Presidency notes the decision of Pre-Trial Chamber II dated 29 April 2016 rejecting the request for leave to appeal the Decision Confirming the Charges in *Ongwen*, thereby concluding the proceedings in the case before that Chamber, and ordering the Registrar to transmit the Decision Confirming the Charges in *Ongwen* and the record of the proceedings to the Presidency for the purpose of constituting a Trial Chamber pursuant to article 61(11) of

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<sup>1</sup> Pre-Trial Chamber II, *The Prosecutor v. Dominic Ongwen*, “Decision on the confirmation of charges against Dominic Ongwen”, ICC-02/04-01/15-422-Red.

<sup>2</sup> Pre-Trial Chamber I, *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, “Decision on the confirmation of charges against Ahmad Al Faqi Al Mahdi”, ICC-01/12-01/15-84-Red.

<sup>3</sup> Registry, *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, “Transmission to the Presidency of the record of the proceedings, including the Decision on the confirmation of charges against Ahmad Al Faqi Al Mahdi”, ICC-01/12-01/15-85.

the Statute.<sup>4</sup>

The Presidency notes that the record of the proceedings before Pre-Trial Chamber II and the Decision Confirming the Charges in *Ongwen* were transmitted to the Presidency, by the Registrar, on 2 May 2016, in accordance with rule 129 of the Rules.<sup>5</sup>

The Presidency has considered the unprecedented current and anticipated judicial workload of the Court. It has taken into account, in particular, the judicial needs with respect to different phases of the trial and appeal proceedings which are currently ongoing before the Court and the necessity to ensure sound management of the same. The Presidency has particularly had regard to the need to expedite proceedings by allowing to the fullest extent possible the conduct of parallel hearings in ongoing trials. The Presidency has also considered the workload and individual concerns of judges of the Court, in consultation with the judges concerned.

The Presidency also notes that Judge Antoine Kesia-Mbe Mindua, who has been serving as a Judge in a Trial Chamber at the International Criminal Tribunal for the former Yugoslavia (“ICTY”), has, by means of an exchange of letters with the ICTY, been made available to serve on a full-time basis at the ICC (without prejudice to his residual responsibilities in ongoing ICTY proceedings), as of 1 May 2016, pursuant to article 35(3) of the Rome Statute.

The Presidency *hereby decides* to temporarily attach Judge Antoine Kesia-Mbe Mindua, currently assigned to the Pre-Trial Division, to the Trial Division, in accordance with article 39(4) of the Statute.

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<sup>4</sup> Pre-Trial Chamber II, *The Prosecutor v. Dominic Ongwen*, “Decision on the Defence request for leave to appeal the decision on the confirmation of charges”, ICC-02/04-01/15-428, para. 40.

<sup>5</sup> Registry, *The Prosecutor v. Dominic Ongwen*, “Transmission to the Presidency of the record of the proceedings, including the ‘Decision on the confirmation of charges against Dominic Ongwen’” ICC-02/04-01/15-429.

The Presidency *hereby constitutes* Trial Chambers VIII and IX with immediate effect as follows:

**Trial Chamber VIII**

Judge Antoine Kesia-Mbe Mindua

Judge Bertram Schmitt

Judge Raul C. Pangalangan

**Trial Chamber IX**

Judge Bertram Schmitt

Judge Peter Kovacs

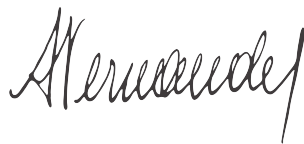
Judge Raul C. Pangalangan

The Presidency *hereby refers* the case of *The Prosecutor v. Ahmad Al Faqi Al Mahdi* to Trial Chamber VIII and *orders* the Registrar to transmit the full record of the proceedings in the *Al Mahdi* case to Trial Chamber VIII, including the Decision Confirming the Charges in *Al Mahdi*.

The Presidency *hereby refers* the case of *The Prosecutor v. Dominic Ongwen* to Trial Chamber IX and *orders* the Registrar to transmit the full record of the proceedings in the *Ongwen* case to Trial Chamber IX, including the Decision Confirming the Charges in *Ongwen*.

The Presidency hereby orders the Registrar to file and notify this decision to the relevant parties and participants in the cases of *The Prosecutor v. Ahmad Al Faqi Al Mahdi* and *The Prosecutor v. Dominic Ongwen*.

Done in both English and French, the English version being authoritative.



**Judge Silvia Fernández de Gurmendi**  
President

Dated this 2 May 2016

At The Hague, The Netherlands