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No.: ICC-01/12-01/18

Date: 23 July 2018

PRE-TRIAL CHAMBER I

Before: Judge Péter Kovács, Single Judge

**SITUATION IN THE REPUBLIC OF MALI
IN THE CASE OF
THE PROSECUTOR *v.* AL HASSAN AG ABDOUL AZIZ MOHAMED AG
MAHMOUD**

Public

With Confidential *EX PARTE* Annexes I and II only available to the Registry

Registry's Report on Legal Representation of Victims

Source: Registry

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor
Ms Fatou Bensouda, Prosecutor

Counsel for the Defence
Mr Yasser Hassan

Legal Representatives of Victims

Legal Representatives of Applicants
Mr Mayombo Kassongo
Mr Fidel Luvengika Nsita

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar
Mr Peter Lewis

Counsel Support Section
Mr Esteban Peralta

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**
Mr Philipp Ambach

Other

I. Introduction

1. On 24 May 2018, the Single Judge of Pre-Trial Chamber I (“Chamber”) issued his Decision Establishing the Principles Applicable to Victims’ Applications for Participation (“Decision”) in the *Prosecutor v. Al Hassan Ag Abdoul Aziz Mohamed Ag Mahmoud* (“Case”).¹ In the Decision, the Single Judge ordered the Registry to submit a report on how an approach to legal representation could be implemented “that prioritizes the victims’ choice” and provides them with the “time necessary to exercise this choice.”²

II. Procedural History

2. On 24 May 2018, the Single Judge issued his Decision ordering the Registry to file a report on legal representation that specifically addresses the following points:
 - (i) whether [the victims] have already identified one or more legal representatives who are able to represent them before the Court or whether efforts have been made to this end, and the time needed for the victims to make a choice;
 - (ii) how the victims may have organized and the consequences for the choice of legal representative; and
 - (iii) whether the victims have the means to pay for legal representatives themselves or whether to rely on persons or NGOs who have accepted to represent them *pro bono*;
 - (iv) the way in which the Registry consulted the victims;
 - (v) the budgetary capacity currently available to the Court, should the victims be unable to bear the financial cost of their legal representatives and should they not have *pro bono* representation, so that the Court

¹ Pre-Trial Chamber I, Decision Establishing the Principles Applicable to Victims’ Applications for Participation, 24 May 2018, ICC-01/12-01/18-37-tENG.

² *Ibid.*, at para. 69.

may pay for all or part of their representation under the head of legal assistance;

- (vi) should common legal representation under rule 90(2) of the Rules be necessary to ensure the effectiveness of the proceedings, the most appropriate number of common legal representatives, given the requirement of rule 90(4) of the Rules to take into account the distinct interests of the individual victims and to avoid any conflict of interest;
- (vii) whether the victims have identified common legal representatives and whether it is necessary to help them do so by referring them to the list of counsel in accordance with rule 90(2) of the Rules; and
- (viii) where it is necessary for the Registry to choose common legal representatives when victims cannot agree on the choice, the availability of persons who are able to communicate with the victims in the field, safely and in their language, and the views of the victims on the persons thus identified by the Registry, as required by rule 90(3) of the Rules and regulation 79(2) of the Regulations of the Court.³

3. On 20 July 2018, the Chamber decided to postpone the commencement of the hearing on the confirmation of charges in the Case to 6 May 2019.⁴

III. Classification

4. In accordance with regulation 23*bis*(1) of the Regulations of the Court ("RoC") and pursuant to article 68(1) of the Rome Statute, Annexes I and II to the present submission are classified as confidential *ex parte* only available to the Registry because they contain sensitive information on the Registry's internal operations, information pertaining to victims' safety and security and

³ Decision, paras. 69 and 70.

⁴ Pre-Trial Chamber I, Décision portant report de la date de d'audience de confirmation des charges, 20 July 2018, ICC-01/12-01/18-94-Red.

identifying information on the Registry's intermediaries. The Registry stands ready to prepare a public redacted version of Annex I if the Chamber considers this appropriate.

IV. Applicable Law

5. The present report is made on the basis of article 68(1) and (3) of the Rome Statute, rules 16(1) and 90 of the RPE, regulations 23, 67 and 79 of the RoC, regulations 112 and 113 of the Regulations of the Registry, and the Registry's single policy document on the Court's legal aid system.⁵

V. Submission

6. In accordance with the Decision, the Registry hereby transmits its report on legal representation in the Case as Annex I to the present submission. Annex II to the present submission, prepared by the Registry's Country Analysis Unit, is transmitted in an effort to provide additional contextual support, particularly in relation to the security context in Mali, to the Registry's report on legal representation.



p.p. Marc Dubuisson, Director, Division of Judicial Services
on behalf of Peter Lewis, Registrar

Dated this 23 July 2018

At The Hague, The Netherlands

⁵ ICC-ASP/12/3, 4 June 2013.