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No.: ICC-01/12-01/18
Date: 19 December 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 AG MOHAMED AG
MAHMOUD**

Public

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

Registry's Second Report on Legal Representation of Victims

Source: Registry

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

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Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

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**Victims Participation and Reparations
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I. Introduction

1. On 24 May 2018, the Single Judge of Pre-Trial Chamber I (“Single Judge”) issued his “Decision Establishing the Principles Governing Victims’ Applications for Participation” (“First Decision”) in the case *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud* (“Case”).¹ In the First 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 “enough time to exercise this choice.”²
2. Following the submission of the Registry’s Report on Legal Representation of Victims (“First Report”),³ the Single Judge issued his “Decision on the Registry’s Reports concerning Victim Participation” (“Second Decision”) instructing the Victim Participation and Reparations Section (“VPRS”) to collect certain additional information on the topic of legal representation of victims and file it by 19 December 2018.⁴

II. Procedural History

3. On 4 April 2018, the first appearance hearing of Mr Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud was held, during which the date for the commencement of the confirmation of charges hearing was set for 24 September 2018.⁵

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

² *Ibid.*, at para. 69.

³ Registry, Registry’s Report on Legal Representation of Victims, 23 July 2018, ICC-01/12-01/18-98.

⁴ Pre-Trial Chamber I, Decision on the Registry’s Reports concerning Victim Participation, 11 September 2018 (public redacted version notified on 1 October 2018), ICC-01/12-01/18-119-Red-tENG.

⁵ Transcript of the first appearance hearing, 4 April 2018, ICC-01/12-01/18-T-1-Red-ENG, page 10, lines 18-19.

4. On 24 May 2018, the Single Judge issued his First Decision ordering the Registry to file a report on legal representation that specifically addresses the following points:

-) Whether the victims have already identified one or more legal representatives able to represent them before the Court or, if efforts have been or are being made to this end, and the amount of time needed to allow the victims to make a choice;
-) The way in which the victims may have organized and the consequences of such organization on the choice of legal representative;
-) Whether the victims have the means to pay for legal representatives themselves or whether it is possible to rely on persons or NGOs who have accepted to represent them *pro bono*;
-) The way in which the Registry consulted victims;
-) The budgetary capacity currently available to the Court in the event that the victims are unable to bear the financial cost of their legal representatives and should they not have *pro bono* representation so that the Court may pay for all or part of their representation under the head of legal assistance;
-) Should common legal representation under rule 90(2) of the Rules of Procedure and Evidence ("Rules") be necessary, 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;
-) Whether the victims have identified common legal representatives and whether it is necessary to help them to do so by referring them to the Court List of Counsel in accordance with rule 90(2) of the Rules; and
-) Where it is necessary for the Registry to choose common legal representatives when victims cannot agree on the choice,, the

availability of persons able to communicate with the victims in the field, safely and in their language, and the victims' views on the persons identified by the Registry, as required by rule 90(3) of the Rules and regulation 79(2) of the Regulations of the Court.⁶

5. On 20 July 2018, the Chamber decided to postpone the confirmation of charges hearing to 6 May 2019.⁷
6. On 23 July 2018, the Registry filed its First Report providing the information available to the VPRS at the time and requesting additional time for further submissions.⁸
7. On 11 September 2018, the Single Judge issued its Second Decision providing the Registry with further guidance on the information sought and requesting the Registry to file an additional report by 19 December 2018.⁹

III. Classification

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

⁶ First Decision, paras. 69 and 70.

⁷ Pre-Trial Chamber I, Decision Postponing the Date of the Confirmation Hearing, 20 July 2018, ICC-01/12-01/18-94-Red-tENG.

⁸ Registry, Registry's Report on Legal Representation of Victims, 23 July 2018, ICC-01/12-01/18-98.

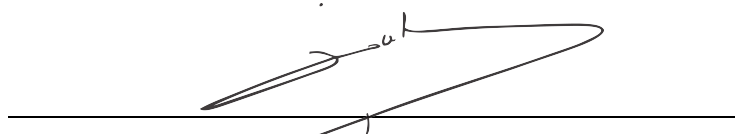
⁹ Pre-Trial Chamber I, Decision on the Registry's Reports concerning Victim Participation, 11 September 2018 (public redacted version notified on 1 October 2018), ICC-01/12-01/18-119-Red-tENG.

IV. Applicable Law

9. 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 Rules, regulations 23, 67, 79, 83 to 85 of the RoC, regulations 112,113 and 130 of the Regulations of the Registry, article 16 of the Code of Professional Conduct for counsel (“Code”) and the Registry’s single policy document on the Court’s legal aid system (“Legal Aid Policy”).¹⁰

V. Submissions

10. In accordance with the Second Decision, the Registry hereby transmits its report on legal representation as Annex I to the present submission. Annexes II and III to the present submission contain proposals from the legal representatives of most of the applicants to work together pursuant to rule 90(2) of the Rules.



Marc Dubuisson, Director, Division of Judicial Services

On behalf of Peter Lewis, Registrar

Dated this 19 December 2018

At The Hague, The Netherlands

¹⁰ Legal Aid Policy, ICC-ASP/12/3, 4 June 2013.