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

Date: 8 April 2019

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 Annex A and Confidential *EX PARTE* Annex B only available to
the Registry**

**Registry's Sixth Assessment Report on Victims' Applications for Participation in
Pre-Trial Proceedings**

Source: Registry

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

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I. Introduction

1. In paragraph 59 of the Decision Establishing the Principles Applicable to Victims' Applications for Participation ("First Decision")¹, the Single Judge of Pre-Trial Chamber I established an admission system whereby the Registry should *inter alia* "classif[y] the applicants into three categories: (a) applicants who clearly qualify as victims ("Group A"); (b) applicants who clearly do not qualify as victims ("Group B"); and (c) applicants for whom the Registry could not make a clear determination for any reason ("Group C")."²
2. Additionally, the Single Judge ordered the Registry to prepare "regular reports that list the applications for participation and classify them according to the three groups"³ and "assessment reports for the attention of the Chamber and the parties, highlighting the difficulties encountered regarding Group C applications."⁴
3. The Registry hereby transmits its sixth report, containing altogether 76 applications received in the case of the *Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud* ("Case"), which includes:
 -) A brief description of the assessment criteria applied in relation to the 73 applicants who, in the Registry's assessment, qualify as victims and have been transmitted in Group A; and
 -) A brief description⁵ of the assessment criteria applied in relation to the three applicants who, in the Registry's assessment, clearly do not qualify as victims and have been transmitted in Group B.
4. The applications falling in Groups A and B have been listed and classified in Annex A to the present submission and separately transmitted to the Chamber in accordance with paragraph 59(ii) of the First Decision.

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 *Id.*, para. 59(i).

³ *Id.*, para. 59(iii).

⁴ *Id.*, para. 59(v).

⁵ The Registry has provided a more detailed description in Annex B to the present submission.

II. Procedural History

5. On 27 March 2018, Pre-Trial Chamber I (“Chamber”) issued the Warrant of Arrest for Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud (“Arrest Warrant”).⁶
6. On 4 April 2018, Mr Al Hassan had his initial appearance before the Chamber.
7. On 24 May 2018, the Single Judge issued the First Decision setting out *inter alia* the admission procedure for victim participation in the Case.⁷
8. 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 2019.⁸
9. On 17 September 2018, the Victims Participation and Reparations Section (“VPRS”) submitted the first assessment report which included 20 applications categorized as Group A and 14 applications categorized as Group C.⁹
10. On 8 October 2018, the Single Judge issued the “Deuxième décision relative aux principes applicables aux demandes de participation des victimes”¹⁰ (“Second Decision”) providing guidance to the VPRS on issues arising from certain applications falling under Group C.¹¹
11. On 6 November 2018, the VPRS submitted the second assessment report which included 74 applications categorized as Group A.¹²

⁶ Pre-Trial Chamber I, “Warrant of Arrest for Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud”, 27 March 2018, ICC-01/12-01/18-2-tEng.

⁷ See *supra*, footnote 1.

⁸ 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.

⁹ Registry, “Registry’s First Assessment Report on Applications for Victims’ Participation in Pre-Trial Proceedings”, 17 September 2018, ICC-01/12-01/18-126.

¹⁰ Pre-Trial Chamber I, “Deuxième décision relative aux principes applicables aux demandes de participation des victimes”, 8 October 2018, ICC-01/12-01/18-146.

¹¹ As per paragraph 59(i) of the First Decision, Group C consists of “applicants for whom the Registry could not make a clear determination for any reason”. The Registry raised three issues arising from Group C applications in its first assessment report filed on 17 September 2018 (ICC-01/12-01/18-126).

¹² Registry, “Registry’s Second Assessment Report on Applications for Victims’ Participation in Pre-Trial Proceedings”, 7 November 2018, ICC-01/12-01/18-176.

12. On 25 January 2019, the VPRS submitted the third assessment report which included 83 applications categorized as Group A and 15 applications categorized as Group C.¹³
13. On 12 February 2019, the VPRS submitted the fourth assessment report which included 80 applications categorized as Group A.¹⁴
14. On 15 March 2019, the VPRS submitted the fifth assessment report which included 163 applications categorized as Group A.¹⁵
15. On 20 March 2019, the Single Judge issued the “Version publique expurgée de la Décision relative aux principes applicables aux demandes de participation des victimes, à leur représentation légale et aux modalités de leur participation à la procédure” (“Third Decision”), providing *inter alia* guidance to the VPRS on issues arising from certain applications previously falling under Group C.¹⁶

III. Classification

16. Annex A to the present report is classified as confidential in accordance with paragraph 59(iii) of the First Decision. Annex B to the present report is classified as confidential *ex parte* only available to the Registry in accordance with paragraph 59(vi) of the First Decision.

IV. Applicable Law

17. The present report is submitted pursuant to article 68(1) and (3) of the Rome Statute, rules 85 to 89 and 92 of the Rules of Procedure and Evidence,

¹³ Registry, “Registry’s Third Assessment Report on Victims’ Applications for Participation in Pre-Trial Proceedings”, 25 January 2019, ICC-01/12-01/18-226.

¹⁴ Registry, “Registry’s Fourth Assessment Report on Victims’ Applications for Participation in Pre-Trial Proceedings”, 12 February 2019, ICC-01/12-01/18-245.

¹⁵ Registry, “Registry’s Fifth Assessment Report on Victims’ Applications for Participation in Pre-Trial Proceedings”, 18 March 2019, ICC-01/12-01/18-281.

¹⁶ Pre-Trial Chamber I, “ Décision relative aux principes applicables aux demandes de participation des victimes, à leur représentation légale et aux modalités de leur participation à la procédure”, version publique expurgée, 20 March 2019, ICC-01/12-01/18-289.

regulation 86 of the Regulations of the Court (“RoC”), and regulations 107 to 109 of the Regulations of the Registry.

V. Submissions

Description of Assessment Criteria and List of Applications Falling within Group A

18. Applying the criteria set out in paragraph 46 of the First Decision, the VPRS has assessed each of the 73 applications transmitted under Group A as complete. In conducting its *prima facie* assessment in accordance with paragraph 48 of the First Decision, the VPRS confirms that each of the 73 applicants whose applications have been transmitted in Group A have met the following criteria:

- i. His or her identity as a natural person is established;
- ii. He or she has suffered harm;
- iii. The harm suffered is a result of an incident falling within the temporal, geographic and material scope of the *Al Hassan* case.

19. In relation to point (i), the VPRS noted that certain applications¹⁷ falling under Group A contain minor discrepancies pertaining to *inter alia* the spelling of the applicants’ names.¹⁸ In these cases, the VPRS took note of the Single

¹⁷ The applications with minor discrepancies include: a/45253/18; a/45275/18; a/45288/18; a/45331/18; a/45373/18; a/45377/18; a/45430/18; a/45505/18; a/45535/18; a/45550/18; a/45560/18; a/45565/18; a/45569/18; a/45576/18; a/45622/18; a/45623/18; a/45626/18; a/45628/18; a/45629/18; a/45631/18; a/45633/18; a/45634/18; a/45635/18; a/45636/18; a/45637/18; a/45642/18; a/20032/19; a/20111/19; a/20117/19; a/20119/19; a/20178/19; a/20180/19; a/20182/19.

¹⁸ The discrepancies identified include: a spelling mistake in the applicant’s first name and/or surname in the application form compared to the identification document; a mistake in the applicant’s first name and/or surname in the application form compared to the identification document; the applicant’s face is obscured on the ID card due to the poor picture quality; the date of birth written on the form differs slightly from that on the applicant’s official identity card; the applicant’s gender is either missing in the application form or differs from that on the applicant’s official identity card (which must be due to an inadvertent error as the gender is clearly established in

Judge's instruction that "a certain degree of flexibility must be shown"¹⁹ and considers that the discrepancies presented in these applications "do not call into question the overall credibility of the information provided by the applicant [...]"²⁰

Description of Assessment Criteria and List of Applications Falling within Group B

20. Applying the criteria set out in paragraph 46 of the First Decision, the VPRS has assessed each of the three applications transmitted under Group B as complete. In conducting its *prima facie* assessment in accordance with paragraph 48 of the First Decision, the VPRS has concluded that the persons whose applications have been transmitted under Group B clearly do not qualify as victims in the Case because the harm alleged has resulted from an incident falling outside:

-) The temporal parameters of the Case;
-) The geographic parameters of the Case; or
-) The material parameters of the Case.

21. Pursuant to paragraph 59(vi) of the First Decision, the VPRS has provided an assessment report for the Chamber in Annex B setting out the specific reasons why the applications were considered to fall outside the parameters of the Case.

22. Lastly, the VPRS has not identified any additional applications that fall under Group C since the issuance of the Third Decision.

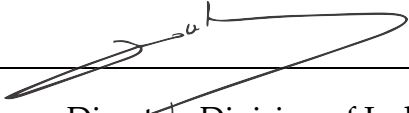
23. Noting the deadlines set out in the First Decision, the Registry's Third Assessment Report on Victims' Applications for Participation in Pre-Trial

the context of the form and in the identity card); the date of signature differs slightly from the date on which the application was actually filled out by the applicant; the nationality written in the form differs from the nationality in the applicant's official identity card.

¹⁹ First Decision, para. 50.

²⁰ *Ibid.*

Proceedings will remain the VPRS's last report concerning Group C applications prior to the hearing on the confirmation of charges unless the hearing is postponed.²¹ The VPRS will continue to assess all remaining applications in its possession according to the criteria established by the Single Judge and will transmit all complete applications in accordance with the deadlines set out in the First Decision.



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

Dated this 8 April 2019

At The Hague, The Netherlands

²¹ Pursuant to paragraph 59(vii) of the First Decision, all Group C applications must be transmitted to the Chamber and the parties "no later than 30 days before the date the hearing is scheduled to commence".