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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**

**Registry's Eighth 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 eighth report 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 62 applicants who, in the Registry's assessment, qualify as victims and have been transmitted in Group A.
4. The applications falling in Group A have been listed and classified in the annex to the present submission 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).

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”).⁵
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.⁶
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 2019.⁷
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.⁸
10. On 8 October 2018, the Single Judge issued the “Deuxième décision relative aux principes applicables aux demandes de participation des victimes”⁹ (“Second Decision”) providing guidance to the VPRS on issues arising from certain applications falling under Group C.¹⁰
11. On 6 November 2018, the VPRS submitted the second assessment report which included 74 applications categorized as Group A.¹¹

⁵ 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.

⁶ See *supra*, footnote 1.

⁷ 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.

⁸ Registry, “Registry’s First Assessment Report on Applications for Victims’ Participation in Pre-Trial Proceedings”, 17 September 2018, ICC-01/12-01/18-126.

⁹ 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.

¹⁰ 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”.

¹¹ 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.¹²
13. On 12 February 2019, the VPRS submitted the fourth assessment report which included 80 applications categorized as Group A.¹³
14. On 15 March 2019, the VPRS submitted the fifth assessment report which included 163 applications categorized as Group A.¹⁴
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.¹⁵
16. On 8 April 2019, the VPRS submitted the sixth assessment report which included 71¹⁶ applications categorized as Group A and 3 applications categorized as Group B.¹⁷
17. On 18 April 2019, the VPRS submitted the seventh assessment report which included 329 applications categorized as Group A and two applications categorized as Group B.¹⁸

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

¹³ Registry, “Registry’s Fourth Assessment Report on Victims’ Applications for Participation in Pre-Trial Proceedings”, 12 February 2019, ICC-01/12-01/18-245.

¹⁴ Registry, “Registry’s Fifth Assessment Report on Victims’ Applications for Participation in Pre-Trial Proceedings”, 18 March 2019, ICC-01/12-01/18-281.

¹⁵ 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.

¹⁶ The Registry notes that applications a/20031/19 and a/20032/19 were mistakenly filed for a second time in the sixth transmission (they were filed for the first time in the 5th transmission). The number of applications reported on in the sixth assessment report as Group A and transmitted in the 6th transmission as Group A should therefore be reduced by two (71, not 73).

¹⁷ Registry, “Registry’s Sixth Assessment Report on Victims’ Applications for Participation in Pre-Trial Proceedings”, 8 April 2019, ICC-01/12-01/18-305.

18. On 18 April 2018, the Chamber postponed the commencement of the hearing on the confirmation of charges in the Case to 8 July 2019.¹⁹

III. Classification

The annex to the present report is classified as confidential in accordance with paragraph 59(iii) of the First Decision.

IV. Applicable Law

19. 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, 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

20. Applying the criteria set out in paragraph 46 of the First Decision, the VPRS has assessed each of the 62 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 62

¹⁸ Registry, "Registry's Seventh Assessment Report on Victims' Applications for Participation in Pre-Trial Proceedings", 18 April 2019, ICC-01/12-01/18-312.

¹⁹ Pre-Trial Chamber I, "Décision fixant une nouvelle date pour le dépôt du document contenant les charges et pour le début de l'audience de confirmation des charges", 18 April 2019, ICC-01/12-01/18-313.

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;²⁰
- 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.

21. In relation to point (i), the VPRS noted that certain applications²¹ falling under Group A contain minor discrepancies pertaining to *inter alia* the spelling of the applicants' names.²² In these cases, the VPRS took note of the Single Judge's instruction that "a certain degree of flexibility must be shown"²³ and considers that the discrepancies presented in these applications "do not call

²⁰ One application is submitted by a representative of an organization. Also, the VPRS notes that one applicant was under age of 18 when she filled in the form (a/20334/19). With regards to the legal basis of VPRS' assessment, the VPRS refers to the footnote 12 of the "Registry's Second Assessment Report on Applications for Victims' Participation in Pre-Trial Proceedings", 7 November 2018, ICC-01/12-01/18-176), and notes the clarification received from the applicant on her demonstrated maturity and the contextual circumstances surrounding her decision to participate individually and not with a person acting on her behalf. The VPRS notes in addition that the applicant is currently over 18 year old. Therefore, the VPRS considers that the applicant clearly qualifies as a victim in Group A.

²¹ The applications with minor discrepancies include: a/45178/18, a/45197/18, a/45205/18, a/45248/18, a/45249/18, a/45273/18, a/45281/18, a/45517/18, a/45521/18, a/45542/18, a/20158/19, a/20179/19, a/20229/19, a/20277/19, a/20291/19, a/20299/19, a/20328/19, a/20334/19, a/20420/19, a/20421/19, a/20425/19, a/20443/19, a/20446/19, a/20447/19.

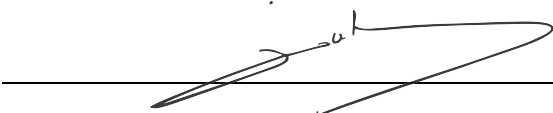
²² The discrepancies identified include: a spelling mistake in the applicant's first and/or second name and/or surname in the application form compared to the identification document; the applicant's second name is not written in the application form; a mix up in the applicant's first name and/or surname in the application form compared to the identification document; the applicants' faces are obscured on the ID card due to the poor picture quality; the applicant's date of birth does not appear in the application form; the date of birth written on the form differs slightly from that on the applicant's state identity card (which must be due to an inadvertent error and/or to the poor picture quality of the ID card); the applicant's gender is not written or differs from that on the applicant's state identity card (which must be due to an inadvertent error as the gender is clearly established in the context of the form and in the identity card); the date and place of signature of the victim does not appear in the application form.

²³ First Decision, para. 50.

into question the overall credibility of the information provided by the applicant [...]"²⁴

22. The VPRS notes that no application falling in Group B has been identified for the present transmission.

23. Noting the postponement of the commencement of the hearing on the confirmation of charges in the Case to 8 July 2019²⁵ and the deadlines set out in the First Decision, the present report and attendant transmission will constitute the VPRS's final report and transmission of applications prior to the confirmation of charges hearing unless the hearing is postponed.²⁶



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

Dated this 24 June 2019

At The Hague, The Netherlands

²⁴ *Ibid.*

²⁵ See *supra* footnote 19.

²⁶ Pursuant to paragraph 59(vii) of the First Decision, all Group A and B applications must be transmitted to the Chamber "no later than 15 days before the date of commencement of the confirmation hearing." The VPRS notes that it has currently received 74 incomplete applications for which supplementary information are requesting. Should the confirmation hearing be rescheduled, the VPRS would use the additional time to try and complete the remaining incomplete application forms.