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PRE-TRIAL CHAMBER I

Before: Judge Péter Kovács, Presiding Judge
Judge Marc Perrin De Brichambaut
Judge Reine Adélaïde Sophie Alapini-Gansou

SITUATION IN THE REPUBLIC OF MALI

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

Public

**Public redacted version of “Prosecution’s observations in response to the
Defence’s admissibility challenge”, 25 July 2019, ICC-01/12-01/18-432-Conf**

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I. Introduction

1. Based on quantitative and qualitative assessments, the case against AL HASSAN is of sufficient gravity to justify further action by the Court within the meaning of article 17(1)(d) of the Statute.
2. One of the charges in this case concerning the destruction of the mausoleums has already been found to be of “significant gravity” in the *Al Mahdi* case.¹ This is only one of 13 charges of crimes against humanity and war crimes in this case, including torture and cruel treatment, outrages upon personal dignity, sexual slavery, rape, inhumane acts, passing of sentence without due process and persecution on gender and religious grounds. The commission of these crimes, the violent and repressive manner in which they were committed affected the civilian population in Timbuktu and its region as a whole. For instance, the crime of persecution on religious and gender grounds caused many inhabitants to flee the region,² causing a significant number of persons to be internally displaced or become refugees in neighbouring countries.³ Those who remained in Timbuktu at the time were subjected to a broad range of persecutory acts that affected virtually every aspect of their lives in a fragrant infringement of their fundamental rights and freedoms.⁴
3. The Defence’s challenge to the admissibility of this case⁵ is factually and legally ill-founded. When addressing the quantitative aspect of the case, it relied on an incomplete representation of the facts omitting approximately 60 victims to the

¹ *Prosecutor v. Al Mahdi*, Judgment and Sentence, ICC-01/12-01/15-171 (“*Al Mahdi* judgement and sentence”), para. 82, 109.

² DCC, para. 159. See also ICC-01/12-01/18-T-005-CONF-ENG CT, p.19, l.13-14.

³ Amnesty International, “Mali: Five months of crisis - armed rebellion and military coup”, 16 May 2012, MLI-OTP-0001-2265, p.2286; Mali • Complex Emergency Situation Report No. 11, 11 July 2012, United Nations Office for the Coordination of Humanitarian Affairs, MLI-OTP-0001-1459, p.1464, reporting that out of a total of 89,390 Malian refugees who had been registered in Mauritania, 87 percent were from the Timbuktu region.

⁴ See, in particular, sections 6.2.1 and 8.6.2 of the DCC.

⁵ *Prosecutor v. Al Hassan*, Submissions for the confirmation of charges, ICC-01/12-01/18-394-Conf (“Defence submissions”), Chapter 5.

crime of passing of sentences. Further, its core arguments are based on a mischaracterization of AL HASSAN's role, conflated the Chamber's assessment on admissibility with that on the merits of the case and relied on the case law of the *ad hoc* international criminal tribunals and legal arguments previously found to be flawed by the Appeals Chamber and Pre-Trial Chambers of this Court. It should therefore be rejected.

II. Confidentiality

4. Pursuant to regulation 23bis(2) of the Regulations of the Court, this document is filed as confidential as it contains information that may reveal the identity of witnesses. A public redacted version of this document will be filed in due course.

III. Applicable law

5. For the purpose of an admissibility challenge under articles 17 and 19 of the Statute, the case is defined by the individual and the alleged conduct, as set out in the warrant of arrest or summons to appear issued under article 58, or the charges brought by the Prosecution and confirmed by the Pre-Trial Chamber under article 61.⁶ At the current stage of the proceedings, a determination of the admissibility of the case must be made by the Chamber on the basis of the Prosecution's allegations as detailed in the Document Containing the Charges ("DCC") before it proceeds to considering whether there is sufficient evidence to confirm the charges.⁷ The determination of the gravity of a case must be

⁶ *Prosecutor v. Ruto et al.*, Judgment on the appeal of the Republic of Kenya against the decision of Pre-Trial Chamber II of 30 May 2011 entitled "Decision on the Application by the Government of Kenya Challenging the Admissibility of the Case Pursuant to Article 19(2)(b) of the Statute", ICC-01/09-01/11-307 OA, para. 40.

⁷ *Prosecutor v. Blé Goudé*, Decision on the Defence challenge to the admissibility of the case against Blé Goudé for insufficient gravity ("*Blé Goudé* admissibility decision"), ICC-02/11-02/11-185, para.17, 20.

based on all relevant aspects of the Prosecution's allegations considered as a whole.⁸ A rigid formula for assessment may be inappropriate.⁹

6. As noted by this Chamber in the Arrest Warrant Decision¹⁰, Pre-Trial Chamber I in the *Abu Garda* case observed that: "the gravity of a given case should not be assessed only from a quantitative perspective, i.e. by considering the number of victims; rather, the qualitative dimension of the crime should also be taken into consideration when assessing the gravity of a given case".¹¹ It further considered that the factors referred to in rule 145(1)(c) of the Rules relating to the determination of sentence, namely, "the extent of damage caused, in particular, the harm caused to victims and their families, the nature of the unlawful behaviour and the means employed to execute the crimes", may serve as useful guidelines for the gravity assessment under article 17(1)(d) of the Statute.¹² This approach has been followed in subsequent decisions of the Pre-Trial Chambers.¹³
7. In determining the gravity of a case, reference has also been made to the existence of any of the aggravating circumstances listed in rule 145(2)(b) of the Rules, which include, *inter alia*, the "[c]ommission of the crime where the victim is particularly defenceless", the "[c]ommission of the crime with particular cruelty

⁸ *Blé Goudé* admissibility decision, para.19.

⁹ See generally, *The situation in the DRC*, Judgment on the Prosecutor's appeal against the decision of Pre-Trial Chamber I entitled "Decision on the Prosecutor's Application for Warrants of Arrest, Article 58", ICC-01/04-169 OA ("DRC Appeals Judgment"), paras. 68-82.

¹⁰ *Prosecutor v. Al Hassan*, Decision on the Prosecutor's Application for the Issuance of a Warrant of Arrest for Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, ICC-01/12-01/18-35-Red2-tENG ("*Al Hassan* arrest warrant decision"), para. 34.

¹¹ *Prosecutor v. Abu Garda*, Decision on the Confirmation of Charges, ICC-02/05-02/09-243-Red ("*Abu Garda* confirmation decision"), para. 31.

¹² *Abu Garda* confirmation decision, para. 32.

¹³ *Prosecutor v. Banda et al.*, Corrigendum of the "Decision on the Confirmation of Charges", ICC-02/05-03/09-121-Corr-Red, para. 27-28; *Prosecutor v. Muthaura et al.*, Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute, ICC-01/09-02/11-382-Red ("*Muthaura et al.* confirmation decision"), para. 50; *Blé Goudé* admissibility decision, para.12.

or where there were multiple victims”, and the “[c]ommission of the crime for any motive involving discrimination.”¹⁴

IV. Observations

8. The case against AL HASSAN is of sufficient gravity, not only quantitatively but also qualitatively, to justify further action by the Court within the meaning of article 17(1)(d) of the Statute.

1. The crimes charged against AL HASSAN are quantitatively grave

9. The crimes charged against AL HASSAN comprise 13 counts of crimes against humanity and war crimes against the civilian population of Timbuktu and its region over a period of nearly 10 months.¹⁵ The Defence’s attempt at minimising the quantitative aspect of the case by reference to specific incidents ignores the fact that virtually the entire civilian population of Timbuktu and its region was victimised as a result of the commission of these crimes, in particular, the crime of persecution under count 13.¹⁶ The Defence’s assessment further disregards the symbolic and emotional value of the destroyed sites as charged under count 10 which has a far reaching damaging effect, not only on the inhabitants of Timbuktu and the people throughout Mali, but also on the international community as a whole.¹⁷
10. Further, the Defence’s arguments relating to the quantitative assessment are based on incomplete or inaccurate representation of the charges.

¹⁴ See, for example, *Blé Goudé* admissibility decision, para.12.

¹⁵ DCC, sections 7 and 9.

¹⁶ See, in particular, sections 6.2.1 and 8.6.2 of the DCC.

¹⁷ See, *Al Mahdi* judgement and sentence, para. 80.

11. Contrary to the Defence's submissions¹⁸, the specific incidents included in the charges against AL HASSAN are not limited to: the destruction of 10 protected buildings (Count 7); torture or other types of ill-treatment of 22 persons (Counts 1-5); rape, sexual slavery and other inhumane acts in the form of forced marriage in relation to 10 persons (Counts 8-12). They also include passing of sentences without due process against approximately 60 persons (Count 6).¹⁹ In addition, as discussed further below, the crime of persecution affected the entire population in Timbuktu and its region, who were perceived to be not adhering to the religious vision of the Groups.²⁰
12. Moreover, the crimes charged against AL HASSAN had a wide geographical and temporal scope. Again, contrary to the Defence's submissions²¹, they include events taking place in the wider Timbuktu region. For example, in the case of [REDACTED]
[REDACTED]²², [REDACTED]
[REDACTED]
[REDACTED].²³ While passing of sentence and floggings took place in the city of Timbuktu, their victimisation is part of the crime of persecution, charged under Count 13.²⁴ Similarly, [REDACTED]
[REDACTED]

¹⁸ Defence submissions, para. 263.

¹⁹ *Prosecutor v. Al Hassan*, Version amendée et corrigée du Document contenant les charges contre M. AL HASSAN Ag ABDOUL AZIZ Ag Mohamed Ag Mahmoud, 8 May 2019, ICC-01/12-01/18-335-Conf, ICC-01/12-01/18-335-Conf-Corr ("DCC"), para.1066. Defence submissions, para. 263.

²⁰ In 2009, the city of Timbuktu alone had a population of about 54,000 but many inhabitants fled after the arrival of the armed groups in April 2012. See DCC, para. 159 and fn. 432.

²¹ Defence submissions, para. 265.

²² [REDACTED]

²³ [REDACTED]

²⁴ DCC, para. 1092, 1094.

[REDACTED].²⁵ The facts related to this incident are also part of the crime of persecution charged against AL HASSAN.²⁶

13. The incidents specifically included in the charges took place over a span of several months.²⁷ In addition, the crime of persecution was committed on a continuous basis throughout the period of control of Timbuktu and its region by the Groups.
14. In any event, other cases with a more focused geographical and temporal scope have been found to be of sufficient gravity.²⁸ For example, Pre-Trial Chamber I considered that the case against Blé Goudé was of sufficient gravity even though the charged incidents took place in a few districts of Abidjan during a period of approximately four months.²⁹ Similarly, the case against Mohmaed Hussein Ali was considered to be of sufficient gravity, notwithstanding that the crimes were alleged to have been committed in two locations over the course of a number of days.³⁰

2. The crimes charged against AL HASSAN are qualitatively grave

15. The crimes with which AL HASSAN is charged, namely, torture, cruel treatment, other inhumane acts, outrages upon personal dignity, passing of sentences without due process, attacks directed against buildings dedicated to religion and historic monuments, rape, sexual slavery and persecution on

²⁵ [REDACTED]

²⁶ DCC, para. 1092, 1094.

²⁷ [REDACTED]

²⁸ See *Blé Goudé* admissibility decision, para.19, stating that the determination of gravity of the case is not limited to particular factors, such as an allegedly low number of casualties or the purported limited temporal and geographical scope of the alleged crimes.

²⁹ *Blé Goudé* admissibility decision, para. 22.

³⁰ *Muthaura et al.* confirmation decision, paras.49-50.

religious and gender grounds, were violent and repressive by nature. They had an extensive impact on direct victims, the community, and beyond.

16. The attacks directed against the mausoleums (Count 7) caused grave moral and economic harm to the victims and the community in Timbuktu and its region.³¹ In this regard, it is notable that this crime was deemed to be “of significant gravity” in the *Al Mahdi* case.³² In reaching this conclusion, Trial Chamber VIII took into account, *inter alia*: a symbolic and emotional value of the destroyed sites for the inhabitants of Timbuktu³³; the status of nine buildings as UNESCO World Heritage sites, which meant that their destruction not only affected direct victims but also people throughout Mali and the international community³⁴; and the economic harm suffered by the victims.³⁵
17. While issued in the context of a determination of sentence, the above finding in *Al Mahdi* is relevant to the determination of the gravity of the crimes charged in this case because: i) according to the case law, gravity assessments for the purpose of articles 17(1)(d) and 76 are to be guided by the same factors;³⁶ and ii) as this Chamber noted in the Arrest Warrant Decision, the level of gravity must be assessed in a consistent manner by the various Organs of the Court.³⁷ The Prosecution also recalls that this Chamber has taken into account the finding in *Al Mahdi* when assessing the gravity of the present case in the Arrest Warrant Decision.³⁸

³¹ See, for example, DCC, para. 905.

³² *Al Mahdi* judgement and sentence, para. 82, 109.

³³ *Al Mahdi* judgement and sentence, para. 78-79.

³⁴ *Al Mahdi* judgement and sentence, para. 80.

³⁵ *Al Mahdi* judgement and sentence, para. 108. In the Reparations Order in *Al Mahdi*, Trial Chamber VIII also recognised that the attacks against the mausoleums caused economic loss not only to those whose livelihoods depended upon them, but also to the entire community in Timbuktu. The Chamber accordingly set Mr Al Mahdi’s liability for consequential economic loss at 2.12 million euros. See ICC-01/12-01/15-236, para.76-83, 128.

³⁶ See paras. 6 and 7 *supra*.

³⁷ *Al Hassan* arrest warrant decision, para. 36.

³⁸ *Al Hassan* arrest warrant decision, para. 38.

18. In addition, the charges against AL HASSAN are broader than those against AL Mahdi and include not only crimes directed against property - which have a vast and long lasting social, cultural and religious impact - but also against a large number of persons.³⁹
19. In particular, the crime of persecution on religious and gender grounds (Count 13) affected the civilian population in Timbuktu and its region as a whole, who lived in a constant atmosphere of fear, violence, oppression and humiliation.⁴⁰ The persecution of the civilian population also caused many inhabitants to flee the region⁴¹, causing a significant number of persons to be internally displaced⁴² or become refugees in neighbouring countries.⁴³
20. Other crimes charged against AL HASSAN are also of significant gravity. For example, the crimes of forced marriage, sexual slavery and rape (Counts 8-12) caused grave physical, psychological, and social harm to the victims. Some victims were raped repeatedly⁴⁴, or by multiple perpetrators,⁴⁵ which added to their suffering and trauma. Victims of “forced marriages”, and children born out of the rapes committed in that context, have suffered additional stigma because of their perceived association with “jihadists”.⁴⁶
21. Similarly, the crimes of torture, cruel treatment, other inhumane acts and outrages upon personal dignity (Counts 1-5) caused not only physical pain and suffering but also psychological and social harm to the victims. Victims of

³⁹ *Al Mahdi* judgement and sentence, para. 77, expressing a view that crimes against property are generally of lesser gravity than crimes against persons.

⁴⁰ See, in particular, sections 6.2.1 and 8.6.2 of the DCC.

⁴¹ DCC, para. 159. See also ICC-01/12-01/18-T-005-CONF-ENG CT, p.19, l.13-14.

⁴² Amnesty International, “Mali: Five months of crisis - armed rebellion and military coup”, 16 May 2012, MLI-OTP-0001-2265, p.2286.

⁴³ Mali • Complex Emergency Situation Report No. 11, 11 July 2012, United Nations Office for the Coordination of Humanitarian Affairs, MLI-OTP-0001-1459, p.1464, reporting that out of a total of 89,390 Malian refugees who had been registered in Mauritania, 87 percent were from the Timbuktu region.

⁴⁴ See, for example, DCC, para. 810 and 811 regarding the cases of [REDACTED].

⁴⁵ See, for example, DCC, para. 813, 814 and 819 regarding the cases of [REDACTED].

⁴⁶ ICC-01/12-01/18-T-005-CONF-ENG CT, p.7, l.24 – p.8, l.20. See also DCC, para. 784-787.

public floggings, for example, recount social rejection, stigmatisation and feelings of humiliation, from which they suffer to this day.⁴⁷

22. Many of the crimes charged against AL HASSAN were committed in an organised manner through the involvement of various Organs created by the Groups, including the Islamic Police.⁴⁸ The establishment of the Organs and implementation of the new rules and restrictions effectively institutionalised the commission of the crimes.
23. The manner in which some of the crimes, such as floggings and amputation, were committed and publicised was also cruel, humiliating and degrading.⁴⁹ Some victims were flogged in front of their spouses, children and other family members, in addition to members of their community.⁵⁰
24. Furthermore, the crimes charged were committed in the context of the widespread and systematic attack directed against the civilian population of Timbuktu and its region.⁵¹ Contrary to the Defence submissions, the context in which the crimes were committed is relevant to the assessment of their gravity. For example, when considering the gravity of the case against Blé Goudé, Pre-Trial Chamber I took into consideration the Prosecution's allegation that the charged crimes are part of a widespread and systematic attack.⁵²
25. Moreover and contrary to the Defence's assertion,⁵³ AL HASSAN's conduct demonstrated aggravating factors, including:

⁴⁷ See, for example, DCC, para. 578 regarding the cases of [REDACTED].

⁴⁸ See, for example, DCC, section 4.3.

⁴⁹ See, ICC-01/11-01/17-13, para. 31.

⁵⁰ DCC, see e.g. paras. 450, 471, 472, 474, 475, 479, 536-546, 550-576; see also, [REDACTED]

⁵¹ DCC, section 6.

⁵² *Blé Goudé* admissibility decision, para. 20, 21(iv).

⁵³ Defence submissions, para. 258.

- A. The commission of the crimes against vulnerable victims, such as defenceless women,⁵⁴ old men⁵⁵ and girls.⁵⁶ By way of illustration, evidence shows that among the victims was [REDACTED]
[REDACTED]. [REDACTED]
[REDACTED]
[REDACTED].⁵⁷
- B. The commission of the crimes based on motive involving discrimination on religious and gender basis.⁵⁸ The victims of the crimes charged were targeted because they were perceived to be not adhering to the religious vision of the Groups⁵⁹, and/or because they were women.⁶⁰
- C. The commission of the crimes with particular cruelty, such as amputation with the use of a machete⁶¹ and severe whipping that caused some victims to lose consciousness⁶² as well as detention in inhumane conditions;⁶³
- D. AL HASSAN's abuse of his position as the *de facto commissaire* of the Islamic Police, which enabled him to subjugate the civilian population to the crimes charged.⁶⁴

⁵⁴ DCC, see e.g. paras. 474, 475, 536-546, 550-558, 575.

⁵⁵ DCC, see e.g. paras 425, 476, 576, 588, 609

⁵⁶ DCC, see e.g. 474, 574, 575

⁵⁷ [REDACTED].

⁵⁸ DCC, see section 8.6. For example, when considering the gravity of the case against Blé Goudé, Pre-Trial Chamber I took into account the Prosecution's allegation that the crimes charged were committed on political, national, ethnic or religious grounds. See *Blé Goudé* admissibility decision, para.21(iii). See also *Al Mahdi* judgement and sentence, para.81, noting that the discriminatory religious motive invoked for the destruction of the sites is relevant to its assessment of the gravity of the crime for which Al Mahdi was convicted.

⁵⁹ DCC, section 8.6.2.1.

⁶⁰ DCC, section 8.6.3.1.

⁶¹ DCC, see e.g. paras. 547-549.

⁶² DCC, see e.g. paras. 450, 471, 472, 474, 475, 479, 536-546, 550-576.

⁶³ DCC, see e.g. paras. 584, 964, 967-968.

⁶⁴ DCC, see e.g. sections 7.1, 7.2.3, 7.3, 7.4, 7.5, and 7.6.

3. AL HASSAN had a significant role in the commission of the crime

26. By requesting the Chamber to assess the gravity of the case based on AL HASSAN's role as "a minor police administrator",⁶⁵ the Defence invites the Chamber to conduct an erroneous assessment from two perspectives.
27. First, it requests the Chamber to premise its assessment on the erroneous basis of the "persons most responsible"⁶⁶ instead of the "most serious crimes" as required by the statutory regime of the Court.
28. Indeed, the Appeals Chamber has rejected the formalistic exclusion of perpetrators who are not among the "most senior leaders" and considered this approach as a flawed interpretation of article 17(1)(d) of the Statute.⁶⁷
29. In rejecting this formalistic approach, the Appeals Chamber took into consideration that: "[t]he particular role of a person, or, for that matter, an organisation, may vary considerably depending on the circumstances of the case" and "individuals who are not at the very top of an organisation may still carry considerable influence and commit, or generate the widespread commission of, very serious crimes".⁶⁸ As such, this approach in the Appeals Chamber's view, "could easily lead to the automatic exclusion of perpetrators of most serious crimes in the future".⁶⁹
30. The Appeals Chamber also noted that: (i) the exclusion of perpetrators other than those at the very top could "severely hamper the preventive, or deterrent, role of the Court which is a corner stone of the creation of the International

⁶⁵ Defence submissions, paras. 258, 266-272.

⁶⁶ Defence submissions, paras. 258,

⁶⁷ DRC Appeals Judgment, paras. 73-79.

⁶⁸ DRC Appeals Judgment, para. 76-77.

⁶⁹ DRC Appeals Judgment, para. 77.

Criminal Court”⁷⁰; and (ii) various provisions of the Statute, such as articles 33 and 27(1), “could relate to persons other than the most senior leaders suspected of being the most responsible”⁷¹; and (iii) “the Preamble to the Rome Statute mentions ‘most serious crimes’ but not ‘most serious perpetrators’. [...] Had the drafters of the Statute intended to limit its application to only the most senior leaders suspected of being most responsible they could have done so expressly”.⁷²

31. Further, the Defence’s reliance on the case law of the International Criminal Tribunal for the Former Yugoslavia (“ICTY”) is likewise inapposite in the present case.⁷³ Both the Appeals Chamber and Pre-Trial Chamber I considered “flawed” the reference to the procedural law and practice of the ICTY and International Criminal Tribunal for Rwanda (“ICTR”) on this matter in the context of the interpretation and application of article 17(1)(d) of the Statute.⁷⁴
32. Second, the Defence seeks to downplay AL HASSAN’s role, thereby conflating the Chamber’s assessment on the admissibility of the case with that on the merits of the case. It effectively requests the Chamber to conduct its assessment in reverse, contrary to the express terms of rule 58(1) of the Rules and the established case law of the Court.
33. In accordance with rule 58(1) of the Rules, Pre-Trial Chamber I has held that:

“[A] determination of the admissibility or jurisdiction of a case is preliminary to the consideration of the merits of such case. Therefore, the Chamber must dispose of the challenge to the admissibility of the case prior to making its determination on whether to confirm or not the charges under article 61(7) of

⁷⁰ DRC Appeals Judgment, para. 75.

⁷¹ DRC Appeals Judgment, para. 78.

⁷² DRC Appeals Judgment, para. 79.

⁷³ Defence’s submissions, ICC-01/12-01/18-394-Red, paras. 270-272.

⁷⁴ DRC Appeals Judgment, para. 80; *Blé Goudé* admissibility decision, paras.16, 18.

the Statute. [...] Such determination is made on the basis of the case as brought by the Prosecutor without delving into consideration on the evidence put forward to sustain those charges. To do otherwise would conflate the Chamber's inquiry into admissibility with that into the merits of the case."⁷⁵

34. The case, as brought by the Prosecution, shows that AL HASSAN was the *de facto commissaire* of the Islamic Police⁷⁶ who played a "significant role" in the commission of the crimes.⁷⁷ In such capacity, he organised the work of the Islamic police, a key organ set up to implement the common plan of the Organisation.⁷⁸ He gave and passed on instructions to members of the Islamic Police in order to apply and enforce the new rules.⁷⁹ He participated and dispatched patrols, sometimes in coordination with other organs,⁸⁰ during which crimes were committed.⁸¹ He received complaints, investigated the alleged violations of the new rules, drafted the police reports and referred the cases to the Islamic tribunal.⁸² He ensured that those who violated the new rules were punished.⁸³ He directly flogged civilians who were suspected of violating these rules⁸⁴ and coordinated with other organs the carrying out of sentences issued by the irregularly constituted Islamic tribunal.⁸⁵

⁷⁵ *Blé Goudé* admissibility decision, paras. 10, 17.

⁷⁶ DCC, see e.g. paras. 11, 24, 121, 152, 251, 261, 269, 280, 367, 376, 382, 383, 399, 402, 406, 409, 410, 419, 499, 510, 512, 517, 603, 608, 617, 730, 731, 824, 837, 846, 862, 998, 1000, 1001, 1004, 1006, 1009, 1016, 1029, 1041, and section 7.2.3.5.

⁷⁷ *Al Hassan* arrest warrant decision, para. 38.

⁷⁸ DCC, see e.g. section 7.2.3.2.

⁷⁹ DCC, see e.g. paras. 278, 282, 283, 284.

⁸⁰ DCC, see e.g. paras. 130, 136, 393.

⁸¹ DCC, see e.g. paras. 25, 124, 128, 151, 210, 230, 277, 279, 283, 317, 318, 342, 345, 374, 378, 379, 954, 986

⁸² DCC, see e.g. section 7.2.3.3.

⁸³ DCC, see e.g. section 7.2.3.4. in particular, paras. 285-313, 319 - 321.

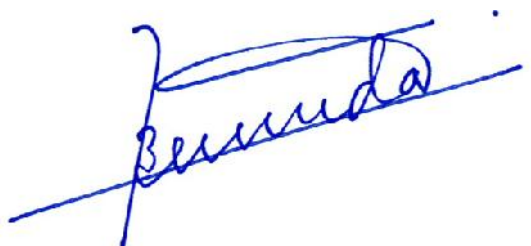
⁸⁴ DCC, see e.g. section 7.1.

⁸⁵ DCC, see e.g. paras. 322, 323, 499 and section 8.2.

35. Through his conduct, he directly and indirectly contributed to the commission of 13 counts of crimes against humanity and war crimes against the civilian population of Timbuktu and its region over a period of nearly 10 months.⁸⁶

V. Conclusion

36. For the reasons set forth above, the Prosecution requests that the Chamber:
- A. find the case against AL HASSAN of sufficient gravity to justify further action by the Court within the meaning of article 17(1)(d) of the Statute; and
 - B. Reject the Defence's challenge to the admissibility of the case.



Fatou Bensouda, Prosecutor

Dated this 25th day of July 2019
At The Hague, The Netherlands

⁸⁶ DCC, sections 7 and 9.