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**International
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Court**

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PRE-TRIAL CHAMBER I

Before: Judge Péter Kovács, Presiding Judge
Judge Marc Perrin de Brichambaut
Judge Reine 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

With Confidential Annexes A to D

**Public redacted version of "Prosecution Request for corrections
and amendments concerning the Confirmation Decision",
30 January 2020, ICC-01/12-01/18-568-Conf**

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Introduction

1. Pursuant to article 61(9) of the Rome Statute (“Statute”), rules 121 and 128 of the Rules of Procedure and Evidence (“Rules”), and regulation 38(3)(g) of the Regulations of the Court, the Prosecution requests Pre-Trial Chamber I (“Chamber”):

(a) to correct/amend the charges confirmed in the Confirmation Decision,¹ due to the Prosecution’s oversight, concerning the following information:

- identity of a victim, replacing the name “[REDACTED]” with the name [REDACTED], under Count 6 of the war crime of passing of sentences without previous judgment pronounced by a regularly constituted court;
- confirmation of the mode of liability under article 25(3)(c) of aiding and abetting by the Accused under Count 6 as regards victims [REDACTED], [REDACTED], [REDACTED], [REDACTED] (or his companion), and [REDACTED];
- the estimated date of arrest by the Islamic police of the victim [REDACTED];

(b) to reconsider and correct/amend the existing charges confirmed in the Confirmation Decision, based on information provided in the Document Containing the Charges (“DCC”), by: (i) confirming the mode of liability under article 25(3)(a) of direct perpetration by the Accused of the crimes of torture (counts 1 and 3), inhumane acts (count 2), cruel treatment (count 4) and outrages upon personal dignity (count 5) as regards victim [REDACTED] and (ii) confirming the mode of liability under article 25(3)(c) of aiding and abetting by the Accused in relation to the crimes of passing of sentences without previous judgment pronounced by a regularly constituted court (under count 6),

¹ ICC-01/12-01/18-461-Conf-Corr (“Confirmation Decision”).

as regards four victims - [REDACTED] and [REDACTED],
[REDACTED] and [REDACTED]; and

(c) to amend the charges to include additional factual allegations (in this instance, further named victims) under the existing charges of torture (counts 1 and 3), inhumane acts (count 2), cruel treatment (count 4), outrages upon personal dignity (count 5), passing of sentences without previous judgement pronounced by a regularly constituted court (count 6), other inhumane acts in the form of forced marriages (count 8), sexual slavery (counts 9 and 10), rape (counts 11 and 12) and persecution (count 13), based on information obtained since the confirmation hearing from Prosecution witnesses P-0636, P-0639, [REDACTED] and P-0524, and upon additional review of the Islamic reports and Islamic judgments.

2. The Prosecution proposes that the suggested corrections and amendments are made by the Chamber at this stage of the proceedings, in the interests of clarity and efficiency. The corrections and amendments sought do not constitute additional or more serious charges. The changes requested are either: (a) corrections/amendments due to the Prosecution's inadvertent oversight; (b) corrections/amendments based on a request for reconsideration; or (c) additional factual allegations within pre-existing charges. Thus, no further oral confirmation hearing is required. None of the requested corrections and amendments cause any prejudice to the Defence.

Confidentiality

3. This filing and Annexes A to D are classified as confidential as they contain references to confidential information. Trial Chamber X granted the Prosecution's requests for redactions including to the identities of witnesses P-0636, P-0639 and [REDACTED]² The Pre-Trial Chamber has been provided with copies of these witnesses' statements as disclosed to the Defence in the

² [REDACTED]

confidential Annex A.³ Certain redactions will be lifted soon, so that the Defence is provided with the statement for witness P-0641 and P-0639 and various supporting documents with fewer redactions, and the statement of P-0524 and new translations of relevant Islamic police reports and Islamic Tribunal judgments, in the form as attached in confidential Annex B.⁴ All of the documents relied upon in this request are listed in Annex C and are hyperlinked in the footnotes of the request. The summary of the charges is attached as Annex D.

Background

4. On 8 May 2019, the Prosecution submitted the DCC against the Accused.⁵ On 11 May 2019, the Prosecution submitted an Amended and Corrected DCC against the Accused.⁶ A month later, on 7 June 2019, the Prosecution submitted the DCC in Arabic.⁷ Subsequently, on 11 June 2019, the Prosecution submitted another version of the DCC in Arabic, including footnotes.⁸ Between 8 and 17 July 2019, the hearing on the confirmation of the charges took place (“Confirmation Hearing”).⁹ On 30 September 2019, Pre-Trial Chamber I (“Chamber”) rendered its decision confirming all charges against the Accused (“Confirmation Decision”).¹⁰

Submissions

I. Corrections and/or amendments to the charges due to the Prosecution’s oversight

³ Annex A: [REDACTED].

⁴ Annex B: [REDACTED]

⁵ ICC-01/12-01/18-335-Conf.

⁶ ICC-01/12-01/18-335-Conf-Corr (“DCC”). On 2 July 2019, the Prosecution submitted a public redacted version of the DCC, ICC-01/12-01/18-335-Corr-Red.

⁷ ICC-01/12-01/18-366; ICC-01/12-01/18-366-Conf-AnxA; ICC-01/12-01/18-366-Conf-AnxB.

⁸ ICC-01/12-01/18-370; ICC-01/12-01/18-370-Conf-AnxA.

⁹ ICC-01/12-01/18-385; ICC-01/12-01/18-390.

¹⁰ ICC-01/12-01/18-461-Conf-Corr (“Confirmation Decision”). A corrected version was issued on 8 November 2019.

5. The Prosecution requests the Chamber to grant all of the corrections to the charges sought to aid the efficiency of the proceedings. Although it is not uncommon that the evidence presented at trial reveal small differences such as in the location and time of the commission of crimes from the charges, the Prosecution files the present request to provide its understanding of the relevant facts in light of the evidence.¹¹ It is in the interests of clarity and expediency that these details are made available to the Defence and the Trial Chamber before the trial starts. The requested corrections do not cause any prejudice to the Accused and ensure that the charges are factually accurate and proceedings are efficient. The first set of corrections as detailed below are those needed, due to oversight on the part of the Prosecution.

(a) Correction to name of victim and correction/amendment to the mode of liability under Count 6 regarding [REDACTED]

6. [REDACTED] is named in the Confirmation Decision as an example of a victim under count 6 (charge of passing of sentences without previous judgment pronounced by a regularly constituted court, with the essential judicial guarantees).¹²
7. The Prosecution requests a correction, so that the name "[REDACTED]" is replaced under count 6 with the name "[REDACTED]". The victim (defendant) in [REDACTED] was [REDACTED]. [REDACTED] ([REDACTED]) was not the victim, but the plaintiff.
8. The Defence was given notice of the correct name of the victim in the DCC,¹³ in the relevant judgment and translation as cited in the DCC,¹⁴ and in the original Arabic version of the document relied upon at the Confirmation

¹¹ See e.g. *George Rutaganda v The Prosecutor*, Judgment on appeal against decision of acquittal or conviction or against sentence, ICTR-96-3-A, 25 May 2003, para.302-306; *Augustin Ngirabatware v The Prosecutor*, Judgment, MICT-12-29-A, 18 December 2014, para.38-40.

¹² Confirmation Decision, p.461. See also p.218-219, para.457-458.

¹³ See DCC, p. 174, para.435, fn.1070; p. 441, para. 1061. See also Confirmation Decision, p.218-219, para.457.

¹⁴ See DCC, fn.1070, 1086, and 1096. [REDACTED]

Hearing.¹⁵ Unfortunately, the Prosecution also referred in the DCC to a different draft version of the English translation from the same case, which wrongly stated that the victim (defendant) was [REDACTED].¹⁶ The Chamber relied upon and cited the incorrect version of the English translation in the Confirmation Decision.¹⁷

9. The Prosecution asks the Chamber to correct the identity of the named victim.
10. The Prosecution also observes that it omitted to bring to the Chamber's attention an Islamic police report signed by the Accused, in relation to this case ([REDACTED]). Under the count of passing of sentences (count 6), the Chamber confirmed the modes of liability pursuant to articles 25(3)(c) and (d) of the Statute with respect to cases where there are corresponding reports of the Islamic police signed by the Accused and written judgements of the Islamic Tribunal.¹⁸ The other cases concerning the sentences pronounced pursuant to a written judgment were confirmed only on the basis of article 25(3)(d) of the Statute.¹⁹ The Prosecution has since identified that there is a corresponding Islamic police report signed by the Accused in connection with the case concerning victim [REDACTED]. The report mentions him by the same name.²⁰ Accordingly, the Prosecution requests that the Chamber additionally confirm the mode of liability of article 25(3)(c), in connection with [REDACTED] (victim [REDACTED]).

(b) Correction and/or amendment to the mode of liability under Count 6 concerning confirmed cases: [REDACTED] ([REDACTED]
[REDACTED]), [REDACTED] ([REDACTED]), [REDACTED]
[REDACTED] ([REDACTED] or his companion), [REDACTED]
[REDACTED]

¹⁵ [REDACTED]

¹⁶ See DCC, fn.530. See [REDACTED]

¹⁷ Confirmation Decision, p.218-219, para.457-458; fn. 1252.

¹⁸ Confirmation Decision, para. 928, 932, 968-975.

¹⁹ Confirmation Decision, para. 931, 968-975.

²⁰ [REDACTED]

11. The Prosecution has identified that there are also Islamic police reports written by the Accused corresponding to judgments of the Islamic Tribunal, in connection with the following confirmed victims:

- [REDACTED] ([REDACTED]):²¹ The corresponding Islamic police report²² is in the Accused's handwriting and dated the same day as the Islamic tribunal judgment (i.e. [REDACTED] 2012).²³ Both the Islamic police report and Islamic Tribunal judgment clearly relate to the same case, for instance they refer to: (a) the same named victim [REDACTED] and named husband; (b) the fact that [REDACTED] had [REDACTED], [REDACTED], and [REDACTED]; and (c) the husband's complaint [REDACTED].²⁴
- [REDACTED] ([REDACTED]):²⁵ The corresponding Islamic police report²⁶ is in the Accused's handwriting, is signed by him and has the Islamic police report stamp. The Islamic report and Islamic Tribunal judgment clearly relate to the same case, and refer to the same named victim. Islamic police report is dated [REDACTED] 2012, two days before the Islamic Tribunal judgment (i.e. [REDACTED] 2012).²⁷ The Islamic report was shown to the Accused,²⁸ who admitted that he drafted it.²⁹ He explained

²¹ Confirmation Decision, p. 207, para.436, p.459. [REDACTED]

²² [REDACTED]

²³ [REDACTED]

²⁴ See [REDACTED]

²⁵ Confirmation Decision, p.213-214, para.448, p.460. [REDACTED]

²⁶ [REDACTED]

²⁷ [REDACTED]

²⁸ Statement of P-0398, [MLI-OTP-0060-1605](#), p.1606-1608, l.7-98.

²⁹ Statement of P-0398, [MLI-OTP-0060-1605](#), p.1606-1607, l.19-64.

that the victim was arrested for being in possession of [REDACTED] [REDACTED], and brought to the police headquarters, before he was transferred to the Islamic Tribunal where he would have been asked to repent.³⁰

- [REDACTED] ([REDACTED] or his companion):³¹ the corresponding Islamic police report³² is in the Accused's handwriting, is signed by him and has the stamp of the Islamic police. The Islamic police report is dated [REDACTED] 2012,³³ about one month before the sentence dated about [REDACTED].³⁴ Although the names of the defendants are not included in the Islamic police report, the details described in the Islamic report and Islamic Tribunal judgment clearly relate to the same case. For instance, both the report and judgment refer to the fact that [REDACTED] [REDACTED] and that there were [REDACTED].³⁵ The Accused was shown the Islamic police report³⁶ and confirmed that he drafted and signed the report.³⁷ The Accused said it was a case involving [REDACTED] [REDACTED].³⁸ He confirmed that one of the [REDACTED] was arrested and he spoke to the arrested man, who admitted the facts.³⁹ He stated that the man was imprisoned [REDACTED].⁴⁰

³⁰ Statement of P-0398, [MLI-OTP-0060-1605](#), p. 1607-1608, 1.65-83.

³¹ Confirmation Decision, p.223-224, para. 466-467, p.461. See [REDACTED]

³² [REDACTED]

³³ [REDACTED]

³⁴ [REDACTED]

³⁵ [REDACTED]

³⁶ Statement of P-0398, [MLI-OTP-0060-1484](#), p.1507-1510, 1.768-856.

³⁷ Statement of P-0398, [MLI-OTP-0060-1484](#), p.1507, 1.768-792.

³⁸ Statement of P-0398, [MLI-OTP-0060-1484](#), p.1508, 1.800-804.

³⁹ Statement of P-0398, [MLI-OTP-0060-1484](#), p.1508-1509, 1.804-844.

⁴⁰ Statement of P-0398, [MLI-OTP-0060-1484](#), p.1509-1510, 1.845-852.

- Case [REDACTED] and [REDACTED]:⁴¹ the corresponding undated Islamic police report⁴² was signed by the Accused. The report clearly relates to the same case as it refers to the same named defendants and describes their alleged offence of stealing a window.⁴³

12. The Prosecution requests, that the Chamber additionally confirm the mode of liability of article 25(3)(c), in connection with [REDACTED] ([REDACTED] [REDACTED]), [REDACTED] [REDACTED]), and [REDACTED] ([REDACTED] or his companion), and [REDACTED].

(c) Correction to estimated date of events regarding victim [REDACTED]

13. The Chamber found that around [REDACTED] 2012, [REDACTED] was arrested in Timbuktu by the Islamic police for being [REDACTED], tortured by members of the Islamic police to [REDACTED], and condemned on [REDACTED] 2012 by the Islamic Tribunal, *inter alia*, to [REDACTED] hits of the whip.⁴⁴

14. Although the Chamber only provided an estimated date of the victim's arrest (of around [REDACTED] 2012), the Prosecution seeks to correct the estimated date of arrest to around [REDACTED] 2012. This is based on evidence from the Accused, confirming that the victim was detained in police custody for about [REDACTED], before he was sentenced, *inter alia*, to flogging by the Islamic Tribunal.⁴⁵ The Islamic Tribunal issued its sentence on [REDACTED] 2012, namely the same day that the Islamic police report was issued.⁴⁶

II. Request for reconsideration - Correction to the charges

⁴¹ Confirmation Decision, p.462, p.226, para.472. [REDACTED]

⁴² [REDACTED]

⁴³ [REDACTED]

⁴⁴ Confirmation Decision, para.270.

⁴⁵ Statement of P-0398, [MLI-OTP-0060-1511](#), p.1525-1527, l.446-529; [MLI-OTP-0062-1095](#), p.1097-1101, l.39-177; [MLI-OTP-0062-1143](#), p.1160, l.548-571.

⁴⁶ [REDACTED]

15. The Prosecution also respectfully requests the Chamber to reconsider the modes of liability concerning incidents for certain victims who are mentioned below. Although the Prosecution could apply to Trial Chamber X under regulation 55, to modify the modes of liability, the Prosecution considers that it would be more expedient in the circumstances to ask the Chamber to correct the modes of liability regarding these incidents. Exceptional circumstances support this request for reconsideration, in that the need to include additional modes of liability regarding these incidents arises from the fact that the Chamber appears to have overlooked information provided in the DCC, which if taken into account, is likely to have led to a different result. Accordingly, there are apparent errors made in the reasoning that should be rectified.⁴⁷ There is no prejudice to the Defence in granting such corrections. Moreover, the Prosecution is discharging its duty to bring to the Chamber's attention its understanding of the facts based on the evidence.

(a) Direct perpetration of crimes against [REDACTED]

16. The Chamber included victim [REDACTED], amongst other victims, under the counts of torture as a crime against humanity (count 1), inhumane acts as a crime against humanity (count 2), torture as a war crime (count 3), cruel treatment as a war crime (count 4), outrages upon personal dignity as a war crime (count 5) and passing of sentences as a war crime (count 6). The Chamber confirmed that the Accused was responsible for these crimes against victim [REDACTED], and other victims, on the basis of the modes of liability under articles 25(3)(c) and 25(3)(d).⁴⁸ However, the Chamber declined to confirm the charges in relation to victim [REDACTED] under counts 1-5, on the basis of the mode of liability of direct perpetration under article 25(3)(a), although the Prosecution had sought to also charge him on that basis.⁴⁹

⁴⁷ See e.g. ICC-01/04-01/06-2705, para.13-18; ICC-01/04-01/06-772 OA4, para.36-39; ICC-01/04-02/06-483, para.13. See also ICC-01/05-01/08-1691-Red, para.17.

⁴⁸ Confirmation Decision, p.452-462. See also para.912-913.

⁴⁹ Confirmation Decision, p.361, para.789-790.

17. The Chamber considered that there was evidence showing that Mr. Al Hassan was present during the flogging of [REDACTED] and [REDACTED] with men assuring a security cordon around those being flogged and the public.⁵⁰ The Chamber did not consider that Mr. Al Hassan admitted that he personally flogged [REDACTED] during his interview with the Prosecution. The Chamber observed that in the passages of Mr. Al Hassan's interview, to which it referred, the Accused admitted that he participated in the flogging but did not clarify the nature of his participation.⁵¹

18. However, the Prosecution respectfully observes that, as set out in the DCC, in subsequent passages of the Accused's interview, the Accused clearly acknowledged his role in personally flogging [REDACTED]:

- First, in a passage a few pages later from that cited by the Chamber, the Suspect was asked to clarify whether he was saying that he himself participated in the flogging and he confirmed that he did: *"Et vous dites que vous, vous avez participé à la flagellation de cette personne? R: Cela est vrai"*.⁵²
- Subsequently, when asked if he could recall other physical floggings in which he had participated, the Accused explicitly stated: *"Je me souviens de la personne [REDACTED].... C'est moi qui l'ai flagellée....Je faisais partie, hein, des personnes qui ont été choisies pour le flageller."*⁵³

19. The Prosecution therefore respectfully requests the Chamber to authorise a correction to the charges to include victim [REDACTED] amongst the examples of other victims, under counts 1 to 5, for whom the Accused is responsible on the basis of the mode of liability of direct perpetration under

⁵⁰ Confirmation Decision, para.307.

⁵¹ Confirmation Decision, footnote 858, citing DCC, para. 554, footnote 1377; Statement of P-0398, [MLI-OTP-0051-0967](#), p.0971-0975, 1.128-255, p.0986-0990, 1.637-642. Footnote 1377 included references up to p. 0990, l. 787.

⁵² Statement of P-0398, [MLI-OTP-0051-0967](#), p. 0987-0990, l. 662-781 (see especially p.0988, l. 704-708). Cited at DCC, para. 554, footnote 1377. See also DCC, para. 209, footnote 542; para. 336, footnote 784; para. 345, footnote 809; para. 409, footnotes 991 and 995; para. 412, footnotes 1001, 1002 and 1005; para.419, footnote 1026; para.465, footnotes 1146 and 1150; para.499, footnotes 1245 and 1254; para. 597, footnote 1471; para. 825, footnote 2080; para. 839, footnote 2127; para. 990, footnote 2556; para. 1001, footnotes 2578 and 2579, 2580; para. 1006, footnotes 2600, 2604, 2606, 2609; para.1016, footnote 2635.

⁵³ Statement of P-0398, [MLI-OTP-0062-1058](#), p.1081-1082, 1.784-793; cited at DCC, para. 499, footnote 1254; DCC, para. 506, footnote 1273.

article 25(3)(a), in addition to the modes of liability already confirmed in connection with this victim under article 25(3)(c) and (d).

(b) Request to confirm two additional cases under Count 6 pursuant to article 25(3)(c) of the Statute as set out in the DCC

20. The Prosecution respectfully requests that, as set out in the DCC,⁵⁴ the Chamber confirms on the basis of article 25(3)(c), in addition to 25(3)(d) as confirmed in the Confirmation Decision,⁵⁵ two criminal cases with respect to which there exist corresponding Islamic police reports and Islamic Tribunal judgements: (i) The case of [REDACTED]⁵⁶; and (ii) the case of [REDACTED], [REDACTED] [REDACTED]⁵⁷.

21. Under the count of passing of sentences (count 6), the Chamber confirmed the modes of liability pursuant to articles 25(3)(c) and (d) with respect to the case concerning [REDACTED] and five cases where there are corresponding reports of the Islamic police signed by the Accused and written judgements of the Islamic Tribunal.⁵⁸ The other cases concerning the sentences pronounced pursuant to a written judgment were confirmed only on the basis of article 25(3)(d) of the Statute.⁵⁹

Case of [REDACTED]

22. The handwritten Islamic police report regarding the case of [REDACTED], dated [REDACTED] 2012, describes the account of a man arrested for alleged [REDACTED].⁶⁰

The report is signed by the Accused with the title of “investigator”.⁶¹ In the

⁵⁴ DCC, para.445, footnote 1090.

⁵⁵ Confirmation Decision, p.461-462.

⁵⁶ Confirmation Decision, para. 469. [REDACTED]

⁵⁷ Confirmation Decision, para. 462.

⁵⁸ Confirmation Decision, para. 928, 932, 968-975.

⁵⁹ Confirmation Decision, para. 931, 968-975.

⁶⁰ [REDACTED]
[REDACTED]
[REDACTED].

⁶¹ Statement of P-0398, [MLI-OTP-0060-1511](#), p.1512-1518, l.24-206 (especially, p.1512-1513, l.24-56). The Accused recognised his signature in document [REDACTED]. See also Graphology Expert Report, [REDACTED]

corresponding judgement dated the same day, the Islamic Tribunal sentenced the man to [REDACTED].⁶² The Prosecution observes that a more complete version of the Islamic Tribunal judgment in the same case, which provides additional details, indicates that the victim was potentially to be [REDACTED] [REDACTED].⁶³ The Accused was shown the related Islamic police report ([REDACTED] [REDACTED] and Islamic Tribunal judgment ([REDACTED]⁶⁴ He confirmed that he was the investigator assigned to the case, he wrote the report, and that it was his signature on the Islamic report beneath the words "investigator". He also recognised the signature of the person accused in the case.⁶⁵ He recounted the details of the case, namely that it related to an alleged [REDACTED].⁶⁶ He acknowledged that the person accused in that case was sentenced to flogging.⁶⁷

Case of [REDACTED] [REDACTED]

23. With respect to [REDACTED], the Islamic police report, dated [REDACTED] 2012 and signed by the Accused,⁶⁸ describes the arrest of men [REDACTED] [REDACTED].⁶⁹ The referral to the Islamic Tribunal is noted on the back of the report.⁷⁰ According to the judgment issued the same day, after examining the case file, the Islamic Tribunal decided that because [REDACTED] [REDACTED], the [REDACTED] had been imprisoned for [REDACTED] and [REDACTED] [REDACTED], the Tribunal would release them and ordered the

[REDACTED], [REDACTED]: «Au vu des éléments graphiques relevés et compatibles avec les signatures de comparaison, il peut être établi que les signatures de [sic] question citées ci-après pourraient avoir été tracées par la personne d'intérêt».

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[REDACTED].

64 Statement of P-0398, [MLI-OTP-0060-1511](#), p.1512-p.1519, l.24-258.

65 Statement of P-0398, [MLI-OTP-0060-1511](#), p.1512-p.1514, l.24-69.

66 Statement of P-0398, [MLI-OTP-0060-1511](#), p.1515-1516, l.103-138.

67 Statement of P-0398, [MLI-OTP-0060-1511](#), p.1519, l.253-258.

68 For example, [REDACTED].

[REDACTED]. See Statement of [REDACTED].

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collectivity of people, as in the case of the crime of persecution, the description of the charges need not detail each and every victim affected by the crime.⁷⁶

26. However, in the interests of clarity and expediency for the upcoming trial, the Prosecution seeks an amendment to the charges pursuant to article 61(9) of the Statute in order to include factual allegations relating to additional victims of crimes within the existing charges of torture (counts 1 and 3), inhumane acts (count 2), cruel treatment (count 4), outrages upon personal dignity (count 5), passing of sentences without previous judgement pronounced by a regularly constituted court (count 6), other inhumane acts in the form of forced marriages (count 8), sexual slavery (counts 9 and 10), rape (counts 11 and 12) and persecution (count 13).
27. There is no prejudice to the Defence because: (a) all of the amendments constitute factual allegations with respect to pre-existing charges (in support of the Chamber's findings regarding the Accused's responsibility for counts 1 to 13); (b) none of the changes constitute additional, or more serious charges; and (c) the amendments are sought at an early stage of the proceedings and are consistent with the other factual allegations underlying the charges.
28. Indeed, it is appropriate to amend charges in this instance, because the trial has not begun. Under article 61(9) of the Statute and rule 128 of the Rules, the Prosecution may request from the Pre-Trial Chamber an authorisation to amend the charges already confirmed, before the trial has begun.⁷⁷

Prosecution was in a position to name the victims, since the identity of the victim is information that is valuable to the preparation of the defence case, it provided such information. See e.g. *Prosecutor v Kupreškić, et al*, [Kupreškić AJ](#), IT-95-16-A, 23 October 2001, para. 90; *Prosecutor v Gotovina, et al*, IT-06-90-AR73.3, 26 January 2009, para. 18; *Prosecutor v Šainović, et al.*, [Šainović et al. AJ](#), IT-05-87-A, 23 January 2014, para. 233.

⁷⁶ ICC-01/12-01/18-143-tENG, para.30.

⁷⁷ For the purposes of article 61(9) of the Statute, the trial does not begin until opening statements are made, before witnesses testify. This interpretation is supported by the Court's jurisprudence. Trial Chamber I considered that the trial begins for the purposes of article 61(9) of the Statute when the opening statements are made prior to calling witnesses: See ICC-01/04-01/06-1084, para.39-40. Trial Chamber II recalled that under article 61(9) the beginning of trial has been interpreted as the moment when there are opening statements, before the appearance of witnesses: See ICC-01/04-01/07-1213, para.42. Trial Chamber III also considered (albeit in the different context of article 19(4) of the Statute), that the trial commences when the opening statements are made, immediately before the beginning of the presentation of evidence: ICC-01/05-01/08-802, para.210. Trial Chamber III further determined that the trial and an evaluation of the merits of the case against the accused commences "when the evidence in the case is called and counsel – by speeches, submissions, statements and questioning – address the merits of the respective cases". See also para. 205-212. See further ICC-01/04-01/07-1213, para.29-50. In its *obiter dicta*, Trial Chamber II considered that different provisions of the Statute and

29. The charges do not constitute additional or more serious charges. Accordingly, no hearing is required under rule 128(3). However, if the Chamber is minded to have a hearing, it should not necessitate more than one day's hearing.

(a) Witness P-0639: Victim P-1134, Victim P-1705 and P-1706

Victim P-1134

30. Victim P-1134 was arrested during the period of the occupation in 2012-2013 by members of the Group during their patrols because of infractions of the Groups' dress code rules, and imprisoned at their headquarters. P-0639, who lived in Timbuktu at the time of the occupation in 2012-2013, was a direct witness to P-1134's arrest and the circumstances, including her ill treatment, during her arrest. P-0639's direct account of P-1134's victimisation is further supported by evidence from witnesses P-0603, P-0622, [REDACTED] P-0636 and documentary evidence.

31. Witness P-0639 describes what he witnessed regarding victim P-1134. Victim P-1134 was at her home when three armed men of the Group in a pick-up vehicle passed the house.⁷⁸ When she saw them, [REDACTED]
[REDACTED].⁷⁹ Two of the armed men in the pick-up vehicle [REDACTED]
[REDACTED].⁸⁰ They hit P-1134, arrested and forcibly put her in their vehicle.⁸¹ They said that they were taking her because they were applying *Sharia*: she had not worn a head-scarf.⁸² When asked, the driver said that she was being brought to their *Commissariat* at the BMS;⁸³ their headquarters and prison.⁸⁴ P-0639 was unaware if P-1134 had been raped. However, he stated that victim P-1134 was clearly affected by

Rules support two interpretations of when a trial commences: either when the Trial Chamber is constituted, or when opening statements are made. Para.42: Trial Chamber II stated that it is not possible to choose one general or definitive interpretation of the expression 'commencement of trial'. Para. 49: Trial Chamber II implicitly decided that under article 19(4) the trial begins when the trial chamber is constituted.

⁷⁸ Witness Statement of P-0639, [REDACTED]

⁷⁹ Witness Statement of P-0639, [REDACTED]

⁸⁰ Witness Statement of P-0639, [REDACTED]

⁸¹ Witness Statement of P-0639, [REDACTED]

⁸² Witness Statement of P-0639, [REDACTED]

⁸³ Witness Statement of P-0639, [REDACTED]

⁸⁴ Witness Statement of P-0639, [REDACTED]

what happened to her during her detention: [REDACTED]

[REDACTED].⁸⁵ P-0639 considers that [REDACTED]

[REDACTED].⁸⁶ P-0622 described how the Groups were arresting women who were not covered according to their rules such as P-1134. She was arrested and brought to the BMS. [REDACTED]

[REDACTED]. [REDACTED]. [REDACTED]
[REDACTED].⁸⁷

32. [REDACTED] [REDACTED] rape and detention in [REDACTED] 2012 at the BMS by 'Islamists', P-1134 stated that the men threatened to kill her if she cried out and she could not refuse. [REDACTED]

[REDACTED].⁸⁸ P-0603 describes what she personally witnessed (and heard from another eye-witness) regarding P-1134. P-0603 heard that P-1134 was arrested by 'Islamists' amongst the Groups because she did not wear a veil. P-0603 saw P-1134 being imprisoned by them at the BMS, and says she was detained there for about two days.⁸⁹ She also saw that P-1134 was [REDACTED]

[REDACTED].⁹⁰ [REDACTED] describes how Mohammed MOUSSA arrested P-1134 and detained her at the BMS. She was arrested because she was not properly dressed according to the Groups' rules.⁹¹ She

[REDACTED] during her detention, was [REDACTED] and was

[REDACTED].⁹² Witness P-0636 was imprisoned with P-1134 and describes P-1134's victimisation, including rape, at paragraphs 36 to 39 below.

33. The Prosecution requests that victim P-1134 be included as an additional victim under the count of persecution (count 13), counts of inhumane acts

⁸⁵ Witness Statement of P-0639, [REDACTED]

⁸⁶ Witness Statement of P-0639, [REDACTED]

⁸⁷ Witness Statement of P-0622, [REDACTED]

⁸⁸ [REDACTED]

⁸⁹ Witness Statement of P-0603, [REDACTED]

⁹⁰ Witness Statement of P-0603, [REDACTED]

⁹¹ Witness Statement of [REDACTED]

⁹² Witness Statement of [REDACTED]

(count 2), cruel treatment (count 4), outrages upon personal dignity (count 5), rape (counts 11 and 12) and sexual slavery (counts 9 and 10), and of passing of sentences (count 6). There are substantial grounds to believe that AL HASSAN is responsible for the crimes committed against Victim P-1134 on the basis of article 25(3)(d) of the Statute, by virtue of his contributions to these crimes.⁹³

Victims P-1705 and P-1706

34. P-0639 heard from P-1706 that during the occupation by the Groups in 2012-2013, P-1706 and [REDACTED] were both imprisoned at the *Commissariat*. Members of the Groups took [REDACTED] by force because she was not wearing the headscarf on her head. When P-1706 [REDACTED]

[REDACTED]⁹⁴

35. The Prosecution requests that victims P-1705 and P-1706 be included as additional victims under the count of persecution (count 13), and of passing of sentences (count 6). There are substantial grounds to believe that AL HASSAN is responsible for the crimes committed against victims P-1705 and P-1706 on the basis of article 25(3)(d) of the Statute, by virtue of his contributions to these crimes.⁹⁵

(b) Victim P-0636; Victim P-1674; Victim P-1134; Victims P-1728 and P-1729; Victim P-1730

Victims P-0636 [REDACTED] and P-1134

36. During the occupation in 2012 to 2013, P-0636 was arrested and imprisoned by the Groups for not wearing a veil. She was raped whilst she was imprisoned. She describes her own victimisation as well as that of P-1134, who was imprisoned together with her and also raped during that imprisonment. Her account is described in the statement of P-0524 and in other related documents.⁹⁶ For the purposes of this request, the Prosecution relies upon P-

⁹³ DCC, para.415-420, 522-527, 635-636, 1012-1017, 1039-1043, 1058, 1066, 1094 ; Confirmation Decision, para. 937-975, 995-1010, p.457-462, 465.

⁹⁴ Witness Statement of P-0639, [REDACTED].

⁹⁵ DCC, para.415-420, 522-527, 1012-1017, 1039-1043, 1066, 1094; Confirmation Decision, para. 937-961, 968-975, 995-1010, p.458-462, 465.

⁹⁶ Witness Statement of P-0524, [REDACTED]

0636's account as described in her ICC statement. P-0636 indicated that the Islamists did many other 'bad things' to them, which she prefers to forget and to not think about.⁹⁷

37. P-0636 confirms that the violations against her took place before the [REDACTED] and after the Islamists arrived in 2012 and began to look for girls to "marry".⁹⁸ P-0636 was approximately [REDACTED] years old at the time of the occupation in 2012.⁹⁹ She was arrested by the Islamists and brought to the headquarters of what she understood to be the Islamic police.¹⁰⁰ [REDACTED] when she was arrested by Islamists at gunpoint and put in their vehicle that had a black and white flag.¹⁰¹ They covered her face with the veil she wore, but it was transparent so she could see.¹⁰²

38. P-0636 was brought to the headquarters of the Islamic police in *quartier* Hamma Bangou. The chief at the headquarters had clear skin, a long beard, was old, and spoke Arabic. Her family tried to seek her release.¹⁰³ She was put in a small room that smelt of urine.¹⁰⁴

39. There, P-0636 saw P-1134 who was imprisoned, she said for not wearing a headscarf.¹⁰⁵ P-0636 also learnt that the [REDACTED] [REDACTED] after a dispute with them.¹⁰⁶ P-0639 also describes how men from the Groups [REDACTED], with whom they had a dispute.¹⁰⁷

40. At night, two armed Islamists took P-0636 to another room where they, together with another man, had sexual intercourse with her after threatening

⁹⁷ Witness Statement of P-0636,

⁹⁸ Witness Statement of P-0636,

⁹⁹ Witness Statement of P-0636,

¹⁰⁰ Witness Statement of P-0636,

¹⁰¹ Witness Statement of P-0636,

¹⁰² Witness Statement of P-0636,

¹⁰³ Witness Statement of P-0636,

¹⁰⁴ Witness Statement of P-0636,

¹⁰⁵ Witness Statement of P-0636,

¹⁰⁶ Witness Statement of P-0636,

¹⁰⁷ Witness Statement of P-0639

her at gunpoint.¹⁰⁸ The men took the other girl, P-1134, away and she returned in tears. P-1134 told P-0636 that [REDACTED] men had sexual intercourse with her.¹⁰⁹ The Islamists gave them nothing to eat, and refused to give [REDACTED].¹¹⁰ They were forced to sleep on the floor.¹¹¹ P-0636 was released but the other girl, P-1134, remained.¹¹²

41. P-0636 [REDACTED] when the Malian army arrived at Timbuktu.¹¹³ [REDACTED]

[REDACTED]¹¹⁴ [REDACTED].¹¹⁵ [REDACTED]
[REDACTED]¹¹⁶

42. The Prosecution requests that victim P-0636 be included as an additional victim under the count of persecution (count 13), counts of inhumane acts (count 2), cruel treatment (count 4), outrages upon personal dignity (count 5), rape (counts 11 and 12) and sexual slavery (counts 9 and 10), and of passing of sentences (count 6). There are substantial grounds to believe that AL HASSAN is responsible for the crimes committed against Victim P-0636 on the basis of article 25(3)(d) of the Statute, by virtue of his contributions to these crimes.¹¹⁷

Victim P-1674

43. P-0636 describes the victimisation of her neighbour P-1674 that took place after the arrival of the Islamists and before the victimisation of P-0636.¹¹⁸ P-0636 saw P-1674 arrested by the Islamists in Timbuktu.¹¹⁹ P-1674 stayed with

¹⁰⁸ Witness Statement of P-0636, [REDACTED]

¹⁰⁹ Witness Statement of P-0636, [REDACTED]

¹¹⁰ Witness Statement of P-0636, [REDACTED]

¹¹¹ Witness Statement of P-0636, [REDACTED]

¹¹² Witness Statement of P-0636, [REDACTED]

¹¹³ Witness Statement of P-0636, [REDACTED]

¹¹⁴ Witness Statement of P-0636, [REDACTED]

¹¹⁵ Witness Statement of P-0636, [REDACTED]

¹¹⁶ Witness Statement of P-0636, [REDACTED]

¹¹⁷ DCC, para.415-420, 522-527, 629-630, 632-633, 635-636, 859-864, 875-877, 1012-1017, 1039-1043, 1058, 1066, 1087, 1094; Confirmation Decision, para. 937-975, 988-1010, p.453-454, 456-465.

¹¹⁸ Witness Statement of P-0636, [REDACTED]

¹¹⁹ Witness Statement of P-0636, [REDACTED]

the Islamists for about a week.¹²⁰ P-0636 learnt that the Islamists had wanted to marry P-1674. [REDACTED]

[REDACTED] P-1674.¹²¹ The family [REDACTED].¹²² P-0636 learnt that some months later, P-1674 [REDACTED] and that it was the Islamists [REDACTED]

[REDACTED]¹²³ P-0636 [REDACTED]

[REDACTED].¹²⁴

44. The Prosecution requests that victim P-1674 be included as an additional victim under the count of persecution (count 13), rape (counts 11 and 12) and sexual slavery (counts 9 and 10) . There are substantial grounds to believe that AL HASSAN is responsible for the crimes committed against Victims P-1674 on the basis of article 25(3)(d) of the Statute, by virtue of his contributions to these crimes.¹²⁵

Victim P-1728

45. During the 2012-2013 occupation, P-0636 saw P-1728 beaten with a baton by an Islamist. [REDACTED] P-1729, [REDACTED]. P-0636 saw the Islamists arrest the woman [REDACTED] at gunpoint but did not learn what happened to them afterwards.¹²⁶

46. The Prosecution requests that victim P-1728 be included as an additional victim under the count of persecution (count 13). The Prosecution also requests that victim P-1728 be included as an additional victim of outrages upon personal dignity (count 5). There are substantial grounds to believe that AL HASSAN is responsible for the crimes committed against Victims P-1728 and P-1729 on the basis of article 25(3)(d) of the Statute, by virtue of his contributions to these crimes.¹²⁷

¹²⁰ Witness Statement of P-0636, [REDACTED]

¹²¹ Witness Statement of P-0636, [REDACTED]

¹²² Witness Statement of P-0636, [REDACTED]

¹²³ Witness Statement of P-0636, [REDACTED]

¹²⁴ Witness Statement of P-0636, [REDACTED]

¹²⁵ DCC, para.415-420, 859-864, 875-877, 1012-1017, 1039-1043, 1087, 1094; Confirmation Decision, para. 937-961, 988-1010, p.463-465.

¹²⁶ Witness Statement of P-0636, [REDACTED]

¹²⁷ DCC, para.415-420, 635-636, 1012-1017, 1039-1043, 1058, 1094; Confirmation Decision, para. 937-967, 995-1010, p.457-458, 465.

(c) Witness [REDACTED] Victim P-1707; Victim P-1708; Victims P-1710, P-1711, P-1712, P-1717, P-1721

47. [REDACTED] was living in Timbuktu, and describes a number of victims of crimes perpetrated during the 2012-2013 occupation by the Groups.

Victim P-1707

48. Victim P-1707 was arrested and [REDACTED] by the Accused during an interrogation.

49. [REDACTED] described an individual who worked with the Accused and whom he used to see when the Islamic police was based at the BMS.¹²⁸ [REDACTED] believes that this individual [REDACTED].¹²⁹ He further stated that the Accused, together with this individual, arrested P-1707 and brought P-1707 to the BMS for [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] P-1707 told [REDACTED] that AL HASSAN [REDACTED] and [REDACTED] [REDACTED] if he did not tell him the truth.¹³¹ [REDACTED].¹³²

50. The Prosecution requests that victim P-1707 be included as an additional victim under the count of persecution (count 13), counts of inhumane acts (count 2), cruel treatment (count 4), and outrages upon personal dignity (count 5). There are substantial grounds to believe that AL HASSAN is responsible for the crimes committed against Victim P-1707 on the basis of article 25(3)(a) as a direct perpetrator,¹³³ and article 25(3)(d) ¹³⁴ and article 25(3)(c)¹³⁵ of the Statute in relation to counts 2, 4 and 5, and on the basis of

¹²⁸ Witness Statement of [REDACTED]

¹²⁹ Witness Statement of [REDACTED]

¹³⁰ Witness Statement of [REDACTED]

¹³¹ Witness Statement of [REDACTED]

¹³² Witness Statement of [REDACTED]

¹³³ Confirmation Decision, para. 787, p.453-454, 456-458; DCC, para.1023-1025, 1058, 1094.

¹³⁴ Confirmation Decision, para. 937-967, 1001-1010, p.453-454, 456-458; DCC, para. 415-420, 629-630, 632-633, 635-636, 1039-1043.

¹³⁵ Confirmation Decision, para. 896-927, p.453-454, 456-458; DCC, para.405-414, 629-630, 632-633, 635-636, 1037-1038, 1041-1043, 1058.

article 25(3)(d)¹³⁶ in relation to count 13, by virtue of his contributions to these crimes as described in the DCC, and confirmed in the Confirmation Decision.

Victims P-1710, P-1711, P-1712, P-1721

51. Victims P-1710, P-1711, P-1712, and P-1721 were arrested and imprisoned for not wearing headscarfs. Mohamed MOUSSA also threatened to imprison P-1713 when he sought [REDACTED] [REDACTED]).
52. During the occupation in 2012-2012, [REDACTED] describes MOUSSA arrest and imprison overnight P-1710 and P-1711 for not wearing a headscarf. [REDACTED] saw them both imprisoned at the BMS.¹³⁷
53. MOUSSA arrested and imprisoned the [REDACTED] (P-1712) for not wearing a headscarf. [REDACTED] saw P-1713 go to the BMS. When P-1713 asked for [REDACTED] to be released, MOUSSA refused and threatened to imprison them both.¹³⁸
54. [REDACTED] also described how [REDACTED] had a conflict with the Islamists after he saw them enter [REDACTED] home and [REDACTED] because she was not veiled.¹³⁹ [REDACTED] [REDACTED] release, which was rejected, [REDACTED] [REDACTED] [REDACTED].¹⁴⁰
55. [REDACTED] stated that he heard a number of complaints from people in Timbuktu and knew the example of how [REDACTED] was arrested by Mohammed MOUSSA when he caught her [REDACTED] [REDACTED] without being correctly covered. She was arrested and violently beaten by members of the Groups. [REDACTED] had told him about the injuries she saw that P-1721 sustained from her beatings.¹⁴¹
56. The Prosecution requests that victims P-1710, P-1711, P-1712, and P-1721 be included as additional victims under the count of persecution (count 13); and

¹³⁶ Confirmation Decision, para. 937-961, 995-1010, p.465; DCC, para. 415-420, 1012-1017, 1039-1043, 1094.

¹³⁷ Witness Statement of [REDACTED]

¹³⁸ Witness Statement of [REDACTED]

¹³⁹ Witness Statement of [REDACTED]

¹⁴⁰ Witness Statement of [REDACTED]

¹⁴¹ Statement of [REDACTED]

that victims P-1710, P-1711, P-1712, and P-1721 be included as additional victims under the count of passing of sentences (count 6). There are substantial grounds to believe that AL HASSAN is responsible for the crimes committed against Victims P-1710, P-1711, P-1712, and P-1721 on the basis of article 25(3)(d) of the Statute, by virtue of his contributions to these crimes.¹⁴²

Victim P-1708

57. [REDACTED] stated that Mohammed MOUSSA went to the market place and told all of the business people to close and go to prayer.¹⁴³ He arrested and imprisoned P-1708 at the BMS, a young man [REDACTED] but [REDACTED] that in that case, it would do him good to stay in detention.¹⁴⁴

58. The Prosecution requests that victim P-1708 be included as an additional victim under the count of persecution (count 13), counts of inhumane acts (count 2), and of passing of sentences (count 6). There are substantial grounds to believe that AL HASSAN is responsible for the crimes committed against Victim P-1708 on the basis of article 25(3)(d) of the Statute, by virtue of his contributions to these crimes.¹⁴⁵

Victim P-1717

59. [REDACTED] witnessed that P-1717 was arrested by Mohammed MOUSSA for [REDACTED] and was publicly whipped in front of the door of the BMS.¹⁴⁶

60. The Prosecution requests that victim P-1717 be included as an example of victims of persecution (count 13), other inhumane acts (count 2), cruel treatment (count 4), and outrages upon personal dignity (count 5), and

¹⁴² DCC, para.415-420, 522-527, 1012-1017, 1039-1043, 1066, 1094 ; Confirmation Decision, para. 937-961, 968-975, 995-1010, p.458-462, 465.

¹⁴³ Witness Statement of [REDACTED]

¹⁴⁴ Witness Statement of [REDACTED]

¹⁴⁵ DCC, para.415-420, 522-527, 1012-1017, 1039-1043, 1066, 1094 ; Confirmation Decision, para. 937-961, 968-975, 995-1010, p.458-462, 465.

¹⁴⁶ Witness Statement of [REDACTED]

passing of sentences (count 6). There are substantial grounds to believe that AL HASSAN is responsible for the crimes committed against P-1717 pursuant to article 25(3)(d) of the Statute, by virtue of his contributions to these crimes.¹⁴⁷

Victim P-0641

61. P-0641 [REDACTED]

[REDACTED]¹⁴⁸ For instance, he was personally threatened by a young Islamist

[REDACTED]¹⁴⁹ He was arrested and detained for [REDACTED] He was later arrested [REDACTED].¹⁵⁰

62. The Prosecution requests that victim P-0641 be included as an example of victims of persecution (count 13). There are substantial grounds to believe that AL HASSAN is responsible for the crimes committed against P-0641 pursuant to article 25(3)(d) of the Statute, by virtue of his contributions to these crimes.¹⁵¹

(d) Witness P-0524: Victims P-0609 ([REDACTED]); P-0957 ([REDACTED])

63. From [REDACTED] [REDACTED] P-0524 [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]¹⁵² [REDACTED]
[REDACTED]
[REDACTED]¹⁵³ [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]¹⁵⁴ [REDACTED]

¹⁴⁷ DCC, para. 415-420, 522-527, 629-630, 632-633, 635-636, 1012-1017, 1039-1043, 1058, 1066, 1094; Confirmation Decision, para. 937-975, 995-1010, p.453-454, 456-462, 465.

¹⁴⁸ Witness Statement of [REDACTED]

¹⁴⁹ Witness Statement of [REDACTED]

Witness Statement of [REDACTED]

¹⁵¹ DCC, para. 415-420, 1012-1017, 1039-1043, 1094; Confirmation Decision, para. 937-961, 995-1010, p.465.

¹⁵² Witness Statement of P-0524, [REDACTED]

¹⁵³ Witness Statement of P-0524, [REDACTED]

¹⁵⁴ Witness Statement of P-0524, [REDACTED]

[REDACTED]¹⁵⁵ [REDACTED]
 [REDACTED]
 [REDACTED]¹⁵⁶ [REDACTED]
 [REDACTED].¹⁵⁷ The two victims described below were arrested, imprisoned and raped by members of the Groups during the occupation in 2012-2013. The victims' accounts are as reflected in their [REDACTED], and as supported in the witness statement of P-0524 and [REDACTED]

Victim P-0609 ([REDACTED])

64. About one month after the arrival of the Groups in Timbuktu,¹⁵⁸ victim P-0609 was arrested and imprisoned by members of the Groups.¹⁵⁹ During her imprisonment they flogged and raped her. She was impregnated.
65. Victim P-0609, who was about [REDACTED] years old at the time,¹⁶⁰ was arrested and imprisoned with [REDACTED] who were all flogged during their detention.¹⁶¹ She was arrested by armed men, at her home, and taken to the BMS.¹⁶² Her jailors took [REDACTED].¹⁶³ She was flogged until she bled.¹⁶⁴ She was released.¹⁶⁵
66. Some days later after her release, "dijihadistes" (members of the same Groups) came to her home asking to marry her but she and her father refused.¹⁶⁶ They

¹⁵⁵ Witness Statement of P-0524, [REDACTED]
¹⁵⁶ [REDACTED]
 for P-0957 ([REDACTED]).
¹⁵⁷ [REDACTED]
¹⁵⁸ [REDACTED]
¹⁵⁹ [REDACTED] Witness Statement of P-0524, [REDACTED]
¹⁶⁰ [REDACTED] Witness Statement of P-0524, [REDACTED]
¹⁶¹ [REDACTED]
¹⁶² of P-0524, [REDACTED]
¹⁶³ [REDACTED]
¹⁶⁴ [REDACTED]
¹⁶⁵ [REDACTED]
¹⁶⁶ [REDACTED]

[REDACTED]¹⁶⁷ so that eventually she was forced to “marry”.¹⁶⁸
 [REDACTED]¹⁶⁹ She did not know who was meant to be
 her ‘husband’.¹⁷⁰ She was kept in a house, [REDACTED]
 [REDACTED]), with other girls.¹⁷¹ Different men raped her each night until the end
 of the occupation.¹⁷² She escaped [REDACTED]
 [REDACTED].¹⁷³ She had been kept in a room in the house.¹⁷⁴

67. P-0609 [REDACTED]¹⁷⁵ The rapists
 were white men who spoke Arabic.¹⁷⁶ [REDACTED]
 [REDACTED]¹⁷⁷ [REDACTED]¹⁷⁸ She was
 traumatised by the events,¹⁷⁹ and has nightmares.¹⁸⁰ [REDACTED]
 [REDACTED]¹⁸¹ P-0609’s family was not allowed to see
 her whilst she was kept by the Groups.¹⁸² [REDACTED]
 after P-0609’s detention by the Groups.¹⁸³

167 [REDACTED]
 168 [REDACTED]
 0524,
 169 Witness Statement of P-05
 170 [REDACTED]
 171 [REDACTED]
 172 [REDACTED]
 Witness Statement of P-0524,
 173 [REDACTED]
 174 [REDACTED]
 175 [REDACTED]
 176 [REDACTED]
 177 [REDACTED]
 178 [REDACTED]
 179 [REDACTED]
 180 [REDACTED]
 181 [REDACTED]
 182 [REDACTED]
 183 [REDACTED]

68. P-0609 confirmed that the population of Timbuktu was opposed to the ideology of the Groups Ansar Dine and AQMI, and that the women and youth organised peace marches against their occupation.¹⁸⁴

69. The Prosecution requests that victim P-0609 (██████████) be added as an example of victims under the charges of persecution (count 13), other inhumane acts (count 2), cruel treatment (count 4), outrages upon personal dignity (count 5), rape (counts 11 and 12), sexual slavery (counts 9 and 10); and other inhumane acts in the form of forced marriages (count 8). There are substantial grounds to believe that AL HASSAN is responsible for the crimes committed against victim P-0609 on the basis of article 25(3)(d) of the Statute, by virtue of his contributions to these crimes.¹⁸⁵

Victim P-0957 (██████████)

70. Victim P-0957 was forcibly married and raped by a member of the Groups (whom P-0957 described as Islamists who used a black flag with white writing).¹⁸⁶ She was forcibly married from about ██████████
██████████.¹⁸⁷ Her forcible marriage was for about ██████████ (until the Groups left Timbuktu).¹⁸⁸

71. After the Groups occupied Timbuktu, some members of the Groups went to P-0957's home to ask her parents whether they could marry her. Her parents refused.¹⁸⁹ The man wanting to marry her came to their home armed.¹⁹⁰ When they were insistent, P-0957's parents finally agreed: there was nothing they could do. P-0957 was then forced to marry without her agreement.¹⁹¹ The man

¹⁸⁴ ██████████ ██████████.

¹⁸⁵ DCC, para. 415-420, 630, 633, 636, 794, 859-864, 875-877, 1012-1017, 1039-1043, 1094; Confirmation Decision, para. 937-967, 988-994, 1001-1009, p.453-454, 456-458, 462-465.

¹⁸⁶ ██████████

¹⁸⁷ ██████████

¹⁸⁸ ██████████

¹⁸⁹ ██████████

¹⁹⁰ ██████████

¹⁹¹ ██████████

had gone to her home with other men to ask to marry her.¹⁹² She was married in a ceremony and brought to a house.¹⁹³ She tried to flee but was unsuccessful.¹⁹⁴ Her 'husband' regularly raped her.¹⁹⁵ She also cooked and washed his clothes.¹⁹⁶ Her husband finally released her [REDACTED] [REDACTED],¹⁹⁷ when the [REDACTED].¹⁹⁸ P-0957 confirmed that the Groups imposed their ideology and vision of Islam on the population of Timbuktu which was not shared by the population. Moreover they carried out other exactions on the population including floggings, rapes and amputation.¹⁹⁹ Her husband had forced her to wear the *niqab* whenever she left the house.²⁰⁰

72. The Prosecution requests that victim P-0957 ([REDACTED]) be added as an example of victims under the charges of persecution (count 13), other inhumane acts (count 2), cruel treatment (count 4), outrages upon personal dignity (count 5), rape (counts 11 and 12), sexual slavery (counts 9 and 10); and other inhumane acts in the form of forced marriages (count 8). There are substantial grounds to believe that AL HASSAN is responsible for the crimes committed against Victim P-0957 on the basis of article 25(3)(d) of the Statute, by virtue of his contributions to these crimes.²⁰¹

(e) [REDACTED] ([REDACTED])

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²⁰¹ DCC, para. 415-420, 630, 633, 636, 794, 859-864, 875-877, 1012-1017, 1039-1043, 1094; Confirmation Decision, para. 937-967, 988-994, 1001-1010, p.453-454, 456-458, 462-465.

73. The Prosecution requests that victim [REDACTED] be added as an example of a victim under the charge of persecution (count 13) and charge of passing of sentences by an irregularly constituted tribunal (count 6).²⁰²

74. The undated Islamic police report is written and signed by the Accused and has the Islamic police stamp.²⁰³ The report describes the case of a person arrested in [REDACTED]
[REDACTED]
[REDACTED].²⁰⁴

75. The Islamic Tribunal judgment dated [REDACTED] 2012, regarding [REDACTED]
[REDACTED], corresponds to the police report. The judgment describes how [REDACTED]
[REDACTED], he was found by them together [REDACTED]
[REDACTED] (who always accompanied him), and he was originally from [REDACTED]
([REDACTED]).²⁰⁵ It was decided that because of his "complete ignorance" and [REDACTED]
[REDACTED]. However, the sentence passed against him required him [REDACTED], warned him [REDACTED]
[REDACTED], [REDACTED]
placed him under the supervision of others to prevent him [REDACTED]
[REDACTED].²⁰⁶

76. The Islamic police report was shown to the Accused.²⁰⁷ He confirmed that he drafted the report about the case.²⁰⁸ The Accused stated that the victim was arrested [REDACTED], brought to the police headquarters in Timbuktu, and was sentenced by the Islamic Tribunal to imprisonment [REDACTED] and required [REDACTED]
[REDACTED].²⁰⁹ This case involves a passing of a sentence by an irregularly constituted tribunal, because the victim

²⁰² See above, fn. 73.

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²⁰⁷ Statement of P-0398, [MLI-OTP-0060-1580](#), p.1599-1602, 1.622-737.

²⁰⁸ Statement of P-0398, [MLI-OTP-0060-1580](#), p.1599, 1.622-635.

²⁰⁹ Statement of P-0398, [MLI-OTP-0060-1580](#), p.1600-1601, 1.653-699.

was judged, [REDACTED] and placed under “supervision” of others. It constitutes a sentence as well if he was sentenced to imprisonment [REDACTED]
[REDACTED]

77. There are substantial grounds to believe that AL HASSAN is responsible for the crimes committed against [REDACTED] pursuant to article 25(3)(c)²¹⁰ and article 25(3)(d)²¹¹ of the Statute in relation to Count 6 and article 25(3)(d)²¹² in relation to Count 13, by virtue of his contributions to these crimes as described in the DCC and confirmed in the Confirmation Decision.

Relief requested

78. The Prosecution requests the Chamber’s authorisation to correct and amend the charges, as detailed in the present Request. The Prosecution further requests that the Chamber decide on this Request expeditiously in light of the scheduled trial date of 14 July 2020.²¹³



Fatou Bensouda
Prosecutor

Dated this 30 January 2020

At The Hague, The Netherlands

²¹⁰ DCC, para.405-414, 515-521, 1037-1038, 1041-1043, 1066; Confirmation Decision, para.896-909, 928-933, p.458-462.

²¹¹ DCC, para.415-420, 522-527, 1039-1043, 1066; Confirmation Decision, para.937-961, 968-975, 1001-1010, p.458-462.

²¹² DCC, para.415-420, 1012-1017, 1039-1043, 1094; Confirmation Decision, para.937-961, 968-975, 1001-1010, p.465.

²¹³ ICC-01/12-01/18-548, para.24.