

Initial Appearance

(Open Session)

ICC-01/12-01/18

1 International Criminal Court  
2 Pre-Trial Chamber I  
3 Situation: Republic of Mali  
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag  
5 Mahmoud - ICC-01/12-01/18  
6 Single Judge Marc Perrin de Brichambaut  
7 Initial Appearance - Courtroom 1  
8 Wednesday, 4 April 2018  
9 (The hearing starts in open session at 3.03 p.m.)  
10 THE COURT USHER: [15:03:02] All rise.  
11 The International Criminal Court is now in session.  
12 Please be seated.  
13 SINGLE JUDGE PERRIN DE BRICHAMBAUT: [15:03:42] (Interpretation) Good  
14 afternoon, everyone.  
15 By a decision of 28 March 2018, Pre-Trial Chamber I designated me as a Single Judge  
16 responsible for exercising the functions of the Chamber for the period from 3 to 6  
17 April 2018 in the instant case. On behalf of my colleagues, Judge Reine Adélaïde  
18 Sophie Alapini-Gansou and Judge Péter Kovács, I would like to welcome you to this  
19 hearing.  
20 And I would like to ask the court officer to call the case.  
21 THE COURT OFFICER: [15:04:26] (Interpretation) Situation in the Republic of Mali,  
22 in the case of The Prosecutor versus Al Hassan Ag Abdoul Aziz Ag Mohamed Ag  
23 Mahmoud, reference number of the case, ICC-01/12-01/18.  
24 We are in open session.  
25 SINGLE JUDGE PERRIN DE BRICHAMBAUT: [15:04:50] (Interpretation) Thank

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1 you.

2 And now I would like to ask the various parties to introduce themselves, beginning  
3 with the Office of the Prosecutor. I would like to ask each and every one to speak  
4 slowly and to observe a pause so as to enable our interpreters to do their work  
5 properly. We have the English and the French booths as well as the Arabic booth.  
6 So now, Madam Prosecutor, can you please introduce yourself as well as the  
7 members of your team.

8 MS BENSOUDA: [15:05:28] Thank you, Mr President.

9 Mr President, the Office of the Prosecutor is represented this afternoon by  
10 Mr Gilles Dutertre, senior trial lawyer; Pascal Turlan, judicial cooperation adviser;  
11 Hesham Mourad, trial lawyer; Marie-Jeanne Sardachti, trial lawyer,  
12 Richard Nsanzabaganwa, international cooperation adviser; Yayoi Yamaguchi,  
13 associate trial lawyer; and Sarah Coquillaud, assistant legal officer; and myself,  
14 Fatou Bensouda, Prosecutor.

15 SINGLE JUDGE PERRIN DE BRICHAMBAUT: [15:06:21] (Interpretation) Thank  
16 you, Madam Prosecutor.

17 Now I will give the floor to the Defence counsel. Can you please, the Defence  
18 counsel via Mr Hassan, can you introduce yourself. And I would like to ask you to  
19 allow the suspect to introduce himself later.

20 MR HASSAN: [15:06:45] (Interpretation) Thank you, your Honour. I would like to  
21 thank everyone in this courtroom. My name is Yasser Hassan, and I am the Defence  
22 counsel, the duty counsel, representing Mr Al Hassan Ag Abdoul Aziz Ag Mohamed.  
23 He is present with us here today.

24 (Speaks English) I'm sorry, your Honour, I speak in Arabic, I'm so sorry, I'm so sorry.  
25 I'm sorry. I will continue in English. I'm sorry.

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1 Your Honour, I'm Yasser Hassan, duty counsel of Mr Al Hassan Ag Abdoul Aziz  
2 Mahmoud -- Mohamed Mahmoud, and he is present today and he would like to  
3 speak directly to you, your Honour.

4 SINGLE JUDGE PERRIN DE BRICHAMBAUT: [15:07:44] (Interpretation) He will  
5 have his turn and he will be able to speak.

6 MR HASSAN: [15:07:51] Thank you, your Honour. But I would like to introduce --

7 SINGLE JUDGE PERRIN DE BRICHAMBAUT: [15:08:01] (No Interpretation)

8 MR KEÏTA: [15:08:07] (Interpretation) Good afternoon, Mr President. Good  
9 afternoon, everyone. At the request of my colleague, Hassan, the  
10 Office of Public Counsel for Defence will be assisting Mr Al Hassan today, and I am  
11 accompanied by Ms Marie O'Leary, counsel; Mr Michael Herz, assistant counsel; and  
12 Ms Vedrana Residovic, who is the case manager. I myself, I am the lead counsel of  
13 the OPCD and this is pursuant to Regulation 77. I am Xavier-Jean Keïta.

14 SINGLE JUDGE PERRIN DE BRICHAMBAUT: [15:09:07] (Interpretation) Thank  
15 you, Counsel. I will simply want to confirm what Mr Hassan has said. It is good  
16 that Defence counsel should express themselves in one of the two working languages  
17 of the Court, that is, French or English; it is up to them to choose.

18 Now I would like to address myself to Mr Al Hassan himself and I would like to ask  
19 him to introduce himself.

20 Can you please rise.

21 I would like to ask you to state your name as well as your date and place of birth.

22 Please use the microphone, you have the floor.

23 MR AL HASSAN: [15:09:46] (Interpretation) My name is Al Hassan Ag Abdoul Aziz  
24 Ag Mohamed Ag Mahmoud and I was born on 19 September 1977.

25 SINGLE JUDGE PERRIN DE BRICHAMBAUT: [15:10:09] (Interpretation) Thank

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1 you. Are there any other further details you would like to add to your identity?

2 MR AL HASSAN: [15:10:18] (Interpretation) No, I have nothing to add.

3 SINGLE JUDGE PERRIN DE BRICHAMBAUT: [15:10:21] (Interpretation) Thank

4 you, Mr Al Hassan. You can take your seat.

5 Now the time has come for me to clarify the nature and scope of this hearing. It is

6 important to bear in mind that this hearing is neither a trial nor a confirmation of

7 charges hearing. No evidence shall be adduced or tendered.

8 Furthermore, there will be no questions relating to the guilt or innocence of

9 Mr Al Hassan. That said, the scope of this initial appearance shall be limited to three

10 items pursuant to Article 60(1) of the Rome Statute and Rule 121(1) of the Rules of

11 Procedure and Evidence, which defines the purpose of the initial appearance as

12 follows, amongst others:

13 Firstly, the Single Judge shall satisfy himself or herself that the person subject to the

14 warrant of arrest has been informed of the crimes which he or she is alleged to have

15 committed.

16 Secondly, the Single Judge shall ensure that the person has been informed of his or

17 her rights under the Statute.

18 Lastly, the Single Judge shall set the date on which the Chamber intends to hold

19 a hearing to confirm the charges.

20 Accordingly, I shall proceed to deal with these three items that are the subject of

21 today's hearing one after the other.

22 To begin with, as required by Article 60 of the Rome Statute, I would like to ask

23 whether you have been properly informed of the crimes charged against you.

24 Mr Al Hassan, you have the floor.

25 MR AL HASSAN: [15:12:31] (Interpretation) Yes, I have been so informed.

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1 SINGLE JUDGE PERRIN DE BRICHAMBAUT: [15:12:40] (Interpretation) Thank  
2 you.

3 Would you, however, like the charges against you, pursuant to the arrest warrant  
4 issued by the Chamber on 27 March, to be read out to you again?

5 MR AL HASSAN: [15:12:55] (Interpretation) No. That will not be necessary.

6 SINGLE JUDGE PERRIN DE BRICHAMBAUT: [15:13:03] (Interpretation) Thank  
7 you.

8 Mr Al Hassan, I must also ensure that you have been fully informed of all your rights  
9 under the Rome Statute, particularly under Article 67 of the Statute. Have you been  
10 so informed, Mr Al Hassan?

11 MR AL HASSAN: [15:13:29] (Interpretation) Yes.

12 SINGLE JUDGE PERRIN DE BRICHAMBAUT: [15:13:31] (Interpretation) Thank  
13 you.

14 I will now, therefore, recap some of your rights that hold particular significance at this  
15 stage of the proceedings. They include, among others, the following rights: You  
16 have the right to be informed promptly and in detail of the nature of the case and the  
17 content of the charges against you in a language which you fully understand and  
18 speak.

19 Mr Al Hassan, could you please confirm which language or languages you speak and  
20 understand fully, in particular, do you understand and speak French?

21 MR AL HASSAN: [15:14:23] (Interpretation) Yes.

22 SINGLE JUDGE PERRIN DE BRICHAMBAUT: [15:14:28] (Interpretation) Thank  
23 you.

24 Mr Al Hassan, you can also have free assistance of a competent interpreter, as well as  
25 translation services for the purposes of investigations. You may want to note, by the

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1 way, that simultaneous interpretation is provided in Arabic for this hearing.

2 Mr Al Hassan, you have the right to have adequate time and facilities to prepare your  
3 defence and to freely communicate in a confidential manner with the counsel of your  
4 choice.

5 Mr Al Hassan, you have the right to remain silent and you cannot be forced to testify  
6 against yourself or to have to enter a guilty plea.

7 Finally, you can also make unsworn statements within the framework of your defence  
8 whenever you wish to do so. Furthermore, and in addition to any other disclosures  
9 provided for by the statute, you have the right to receive and to have disclosed to you  
10 material, any material in the Prosecutor's possession or available to him whenever  
11 such is possible which shows or tends to show your innocence, mitigate your guilt or  
12 which may affect the credibility of the Prosecution's evidence.

13 Now once again let me turn to you, Mr Al Hassan, to ask if you have any  
14 observations and remarks on the conditions of your surrender to the ICC and your  
15 detention at the headquarters of the Court since you arrived here in The Hague?  
16 You have the floor, Mr Al Hassan.

17 MR AL HASSAN: [15:16:46] (Interpretation) I have only one observation; namely,  
18 that I was detained in a room which had a camera.

19 SINGLE JUDGE PERRIN DE BRICHAMBAUT: [15:17:08] (Interpretation) Thank  
20 you. I take note of that, but I also note that this will be recorded on the transcript.  
21 Furthermore, under Article 60 of the statute, Mr Al Hassan, you have the right to  
22 apply for interim release pending trial. Naturally, upon making such an application,  
23 the Chamber does not have to rule immediately, although you may be entitled to  
24 make such an application, and thereafter the Prosecutor will be entitled to make her  
25 observations on your application. Mr Hassan, you have the floor.

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1 MR HASSAN: [15:18:15] Thank you, your Honour. I have three notice: The first  
2 one, that the accused, he knows French like, but is not his mother tongue and he  
3 prefer to use Arabic language, even he will pleading about himself, if necessary, in  
4 Arabic, and he informed me about that yesterday.

5 And as me, you know, your Honour, I'm only duty counsel and I was appointed less  
6 than 24 hours ago. So my client informed me later by saying this, he want -- that it's  
7 really harming his dignity and also his privacy.

8 And about release, I think this is a matter of permanent -- I think that it's duty of  
9 permanent counsel because it maybe affect the strategy of the Defence, so I have  
10 nothing to say about. But my client would like to inform about something really  
11 very important.

12 SINGLE JUDGE PERRIN DE BRICHAMBAUT: [15:20:29] (Interpretation) Thank  
13 you, Counsel.

14 On behalf of the Chamber, I have taken note of your remarks. And when it comes to  
15 the first remark, that has already been dealt with given that Arabic interpretation is  
16 provided in simultaneous mode and your client will be authorised to speak in Arabic  
17 if he desires to do so.

18 Now, when it comes to the other requests you have made, let me point out to you that  
19 it is not the purpose of this hearing to deal with any aspects of detention which your  
20 client will be able to address once his Defence team would have been fully constituted.

21 In which case, they would be at liberty to make any applications to the Chamber  
22 which will then expedite. So I therefore would urge you not to engage in  
23 discussions on this matter during this hearing.

24 That having been said, if Mr Al Hassan has anything to say, we will hear him.

25 Thank you.

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1 Now I also want to point out to you that we are in an open session here and any  
2 remarks that are made that may bear on the confidentiality of our hearings will be out  
3 of place. I therefore do not encourage such remarks in this context, particularly  
4 when it comes to communication and disclosures. I therefore urge you to be  
5 cautious in these matters.

6 MR HASSAN: [15:23:23] Thank you, your Honour. But I think it the time to inform  
7 you about some really serious issues. Even we can go to closed session.

8 SINGLE JUDGE PERRIN DE BRICHAMBAUT: [15:23:37] (Interpretation) Yes  
9 indeed, Counsel, we can go into private session. But I have also made a certain  
10 number of remarks to you and I want you to bear those in mind, namely, that  
11 we cannot deal with a number of issues in this initial hearing. Now can we go into  
12 private session, and please hold on for the court officer to authorise you to take the  
13 floor.

14 (Private session at 3.23 p.m.)

15 (Redacted)

16 (Redacted)

17 (Redacted)

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1 (Redacted)

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4 (Redacted)

5 (Open session at 3.28 p.m.)

6 THE COURT OFFICER: [15:29:07] (Interpretation) We are in open session,  
7 your Honour.

8 SINGLE JUDGE PERRIN DE BRICHAMBAUT: [15:29:11] (Interpretation) Thank  
9 you, court officer.

10 Having now established that Mr Al Hassan has been informed of the charges against  
11 him and of his rights under the Statute, let me now turn to the matter of the  
12 determination of the date of the confirmation hearing, which is the third agenda item  
13 for today. That indeed is the third point on our agenda, pursuant to Rule 121(1)  
14 of the Rules of Procedure and Evidence.

15 I do acknowledge, and the Chamber acknowledges, that parties need to be given  
16 sufficient time to properly prepare for effective participation at these -- at the  
17 proceedings of the confirmation of charges hearing. Mindful of the past experience  
18 of this Court in this area, the confirmation hearings date has been set for Monday, 24  
19 September 2018. This date may be shortened by the Chamber, mindful of the  
20 circumstances, either proprio motu or at the behest of the Prosecution or the Defence  
21 in view of the developments in the case. The Chamber will make a determination on  
22 any such written and substantiated application in this regard.

23 Furthermore, Rule 121(2) of the Rules of Evidence and Procedure provides that  
24 the Chamber shall organise status conferences to ensure that disclosures take place  
25 under satisfactory conditions. I therefore hereby inform the parties that, by its

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1 decision of 28 March 2018, the Chamber appointed Judge Péter Kovács as the Single  
2 Judge of Pre-Trial Chamber I for that specific purpose in the instant case, subject to  
3 the provisions of Article 57(2)(a) of the Statute. As a single judge he is mandated to  
4 handle all matters pertaining to disclosure of evidence in particular.  
5 This brings us to the end of this initial appearance hearing in the case  
6 of the Prosecutor versus Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud.  
7 May I now thank all those who participated in the hearing and made it possible for  
8 this hearing to take place, including our court reporters and interpreters.  
9 The hearing is adjourned.  
10 (The hearing ends in open session at 3.31 p.m.)