

**Cour  
Pénale  
Internationale**

**International  
Criminal  
Court**



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Date: 30 January 2020

Date of submission:  
20 February 2020

**TRIAL CHAMBER VIII**

**Before: Judge Raul C. Pangalangan, Single Judge**

**SITUATION IN THE REPUBLIC OF MALI**

**IN THE CASE OF  
THE PROSECUTOR V. AHMAD AL FAQI AL MAHDI**

**Public**

**With confidential, *EX PARTE*, Annexes A and B,  
available only to the Prosecution and the Victims and Witnesses Unit**

**Public redacted version of the "Prosecution's request for variation of protective  
measures for [REDACTED] witnesses MLI-OTP-P-0004, MLI-OTP-P-0113, MLI-OTP-  
P-0114 and MLI-OTP-P-0147 [REDACTED]  
[REDACTED], 30 January 2020, ICC-01/12-01/15-342-Conf-Exp**

**Source: Office of the Prosecutor**

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

***Court to:***

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## **REGISTRY**

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Section**

## I. Introduction

1. Pursuant to regulation 42(3) of the Regulations of the Court (“Regulations”), the Prosecution applies to vary the protective measures for Prosecution witnesses MLI-OTP-P-0004, MLI-OTP-P-0113, MLI-OTP-P-0114 and MLI-OTP-P-0147 (together, “Witnesses”) ordered by the Single Judge of Pre-Trial Chamber I in the *Al Mahdi* case,<sup>1</sup> so as to be authorised to disclose their identity, identifying information and associated material to the Defence in the *Al Hassan* case.<sup>2</sup>

2. Trial Chamber VIII (“Chamber”) remains constituted by serving Judges Raul Cano Pangalangan (Presiding and Single Judge), Antoine Kesia-Mbe Mindua and Bertram Schmitt, and the Chamber continues to be seized of the proceedings in the *Al Mahdi* case, in which the protective measures were ordered.<sup>3</sup> As the Prosecution is bound by the protective measures ordered in the *Al Mahdi* case when discharging disclosure obligations in subsequent proceedings,<sup>4</sup> the Prosecution requests that the non-disclosure of these Witnesses’ identity, identifying information and associated material be varied for the Defence of Mr Al Hassan.

3. [REDACTED]

4. [REDACTED]

[REDACTED]. At this stage, taking into account the purpose of the variation sought—to enable disclosure of their identity to the Defence for Mr Al

<sup>1</sup> Situation in the Republic of Mali, *The Prosecutor v. Ahmad Al Faqi Al Mahdi* (“*Al Mahdi* case”).

<sup>2</sup> Situation in the Republic of Mali, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud* (“*Al Hassan* case”).

<sup>3</sup> See regulation 42(3) of the Regulations: “Any application to vary a protective measure shall first be made to the Chamber which issued the order. If that Chamber is no longer seized of the proceedings in which the protective measure was ordered, application may be made to the Chamber before which a variation of the protective measure is being requested.” Trial Chamber VIII is still dealing with reparation issues.

<sup>4</sup> See regulation 42(2) of the Regulations: “When the Prosecutor discharges disclosure obligations in subsequent proceedings, he or she shall respect the protective measures as previously ordered by a Chamber and shall inform the defence to whom the disclosure is being made of the nature of these protective measures.”

Hassan in advance of trial in that case—and considering the relevance of these Witnesses' evidence, the security risks facing these Witnesses and the measures in place to mitigate those risks, [REDACTED]

[REDACTED], it is the Prosecution's submission that the balance of the different interests militates in favour of varying the Witnesses' protective measures as sought in this application.

5. [REDACTED]  
[REDACTED]. With this variation, the Witnesses' identity, identifying information and associated material nevertheless would still be protected from disclosure to the public. [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

## II. Confidentiality

6. Pursuant to regulation 23bis(1) and (2) of the Regulations, the Prosecution files this application, including accompanying annexes, as confidential and *ex parte*, available only to the Prosecution and the VWU, since (i) it refers to submissions and decisions of the same classification; and (ii) contains identifying [REDACTED] information regarding Prosecution witnesses and other persons which cannot be disclosed to the Defence.

7. The Prosecution does not intend to make a confidential redacted version of this application available to the Defence for Mr Al Mahdi because proceedings against him are at the reparation stage following his guilty plea, and because the present variation is sought for the purpose of disclosure to the Defence in the *Al Hassan* case. A public redacted version will be filed as soon as possible.

### III. Procedural background

#### i. General developments in the *Al Mahdi* and *Al Hassan* cases

8. Following an arrest warrant against him, Mr Al Mahdi was surrendered to the Court and made his initial appearance before a Single Judge of Pre-Trial Chamber I on 30 September 2015.

9. As described below, in the course of the *Al Mahdi* pre-confirmation proceedings, protective measures were ordered for the Witnesses.

10. On 24 March 2016, Pre-Trial Chamber I confirmed the charge against Mr Al Mahdi and committed him to a Trial Chamber for trial.<sup>5</sup>

11. On 2 May 2016, Trial Chamber VIII—composed of Judges Antoine Kesia-Mbe Mindua, Bertram Schmitt and Raul C. Pangalangan—was constituted and the *Al Mahdi* case referred to it.<sup>6</sup>

12. On 27 September 2016, following Mr Al Mahdi's guilty plea, Trial Chamber VIII found him guilty of the war crime of intentionally directing attacks against religious and historic buildings in Timbuktu, Mali, in June and July 2012 and sentenced him to nine years' imprisonment.<sup>7</sup>

13. Following an arrest warrant against him, Mr Al Hassan was surrendered to the Court and made his initial appearance before a Single Judge of Pre-trial Chamber I on 4 April 2018.<sup>8</sup>

14. As described below, in the course of the *Al Hassan* pre-confirmation proceedings, non-disclosure of the Witnesses' identity was continued for the Witnesses.<sup>9</sup>

15. On 30 September 2019, Pre-Trial Chamber I issued its decision on the

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<sup>5</sup> ICC-01/12-01/15-84-Red.

<sup>6</sup> ICC-01/12-01/15-86.

<sup>7</sup> ICC-01/12-01/15-171.

<sup>8</sup> ICC-01/12-01/18-T-001-Red-ENG.

<sup>9</sup> Regulation 42(2) of the Regulations.

confirmation of charges against Mr Al Hassan, committing Mr Al Hassan to a Trial Chamber for trial.<sup>10</sup>

16. Trial Chamber X was constituted on 21 November 2019 and the *Al Hassan* case referred to it.<sup>11</sup>

17. On 30 December 2019, the Single Judge of Trial Chamber X issued a decision for reviewing the redactions applied to the evidence disclosed in the *Al Hassan* case, setting a time-limit for the Prosecution to file applications to lift, pursuant to regulation 42, non-standard redactions authorised by a Chamber in other proceedings.<sup>12</sup> In this decision the Single Judge noted that during the present phase of the proceedings, "the Prosecution is providing the Defence with all the material in support of its case so that the accused can prepare his defence prior to the start of trial."<sup>13</sup> The time-limit for regulation 42 applications is 10 March 2020.<sup>14</sup>

**ii. Protective measures' decisions issued for the Witnesses in the *Al Mahdi* and *Al Hassan* cases<sup>15</sup>**

*P-0004 and P-0113*

*Al Mahdi* case

18. On 14 December 2015,<sup>16</sup> the Prosecution filed in the *Al Mahdi* case a request for authorisation not to disclose the identities, identifying information, statements and associated items of *inter alia* Witnesses P-0004 and P-0113, and to instead disclose anonymous summaries. The Prosecution indicated that it did not intend to rely on P-0004 and P-0113 at the confirmation of charges hearing, but that their statement or related item contained some information which might be considered as falling under

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<sup>10</sup> ICC-01/12-01/18-461-Conf-Corr (issued on 8 November 2019). A public redacted version was issued on 13 November 2019: ICC-01/12-01/18-461-Corr-Red.

<sup>11</sup> ICC-01/12-01/18-501.

<sup>12</sup> ICC-01/12-01/18-546, para. 21, p. 11.

<sup>13</sup> ICC-01/12-01/18-546, para. 9.

<sup>14</sup> ICC-01/12-01/18-558, para. 14, p. 10.

<sup>15</sup> See *ex parte* confidential Annex A for a summary chart.

<sup>16</sup> ICC-01/12-01/15-59-Conf-Exp. An *ex parte* confidential redacted version also available to the Defence was filed on the same day: ICC-01/12-01/15-59-Conf-Exp-Red. A public redacted version was filed on 26 October 2016: ICC-01/12-01/15-59-Red2.

rule 77 of the Rules of Procedure and Evidence ("Rules") or article 67(2) of the Rome Statute ("Statute").<sup>17</sup>

19. In a decision dated 16 December 2015,<sup>18</sup> the Single Judge of Pre-Trial Chamber I in the *Al Mahdi* case found that the requested measures were necessary and justified, because "the personal circumstances of all of the affected witnesses [...], especially when assessed in light of the increasingly and rapidly deteriorating security situation overall in Mali, including in the areas where they and/or their families reside, are such as to create an appreciable risk that either themselves and/or their families might become the target of acts of retaliation, were their involvement in the activities of the Court, albeit minimal, be known."<sup>19</sup> The Single Judge also found that "no less intrusive measure apt to neutralise the risk to their own and their families' safety can be feasibly envisaged at this stage."<sup>20</sup>

*Al Hassan* case

20. On 26 February 2019,<sup>21</sup> the Prosecution filed in the *Al Hassan* case a request to withhold the identity of P-0004 upon whose evidence the Prosecution intended to rely at the confirmation of charges hearing, seeking *inter alia* authorisation to disclose the witness's statements with redactions, rather than any updated anonymous summary of his evidence.<sup>22</sup> [REDACTED],<sup>23</sup> [REDACTED]

[REDACTED]

[REDACTED],<sup>24</sup> [REDACTED]

[REDACTED]

[REDACTED]

<sup>17</sup> [REDACTED].

<sup>18</sup> ICC-01/12-01/15-61 (originally filed as confidential but later reclassified as public).

<sup>19</sup> ICC-01/12-01/15-61, para. 7.

<sup>20</sup> ICC-01/12-01/15-61, para. 9. *See also* para. 11.

<sup>21</sup> ICC-01/12-01/18-257-Secret-Exp. An *ex parte* confidential redacted version also available to the Defence was filed on 28 February 2019: ICC-01/12-01/18-257-Secret-Exp-Red. A public redacted version was filed on 13 May 2019: ICC-01/12-01/18-257-Red2.

<sup>22</sup> ICC-01/12-01/18-257-Red2, paras. 1, 8, 13-20, 22, 24-26.

<sup>23</sup> [REDACTED]

<sup>24</sup> [REDACTED].

[REDACTED].<sup>25</sup>

21. On 16 July 2018,<sup>26</sup> the Prosecution applied in the *Al Hassan* case for authorisation to *inter alia* disclose an updated anonymous summary for Witness P-0113 upon whose evidence the Prosecution intended to rely at the confirmation of charges hearing.<sup>27</sup>

22. On 13 September 2018,<sup>28</sup> the Single Judge of Pre-Trial Chamber I in the *Al Hassan* case granted the Prosecution's application, recalling the continuation of protective measures previously ordered for P-0113.<sup>29</sup>

P-0114

*Al Mahdi* case

23. On 18 November 2015,<sup>30</sup> the Prosecution filed a request in the *Al Mahdi* case for authorisation to redact all identifying information and the identity of Witness P-0114 from his witness's screening and statement, and for the non-disclosure of other associated documents.<sup>31</sup> The Prosecution indicated its intention at the time to rely on Witness P-0114 during the confirmation of charges hearing in the *Al Mahdi* case.<sup>32</sup>

24. The Single Judge of Pre-Trial Chamber I in the *Al Mahdi* case granted the Prosecution's application with respect to Witness P-0114 by decision notified on 3 December 2015,<sup>33</sup> finding that the requested measure was necessary and justified.

<sup>25</sup> [REDACTED]

ICC-01/12-01/18-86-Conf-Exp. A confidential redacted version was filed on 20 July 2018: ICC-01/12-01/18-86-Conf-Red. A public redacted version was filed on 21 September 2018: ICC-01/12-01/18-86-Red2.

<sup>27</sup> ICC-01/12-01/18-86-Red2, paras. 3-4, 7.

<sup>28</sup> ICC-01/12-01/18-122-Conf-Exp-tENG. A confidential redacted version was filed on the same day: ICC-01/12-01/18-122-Conf-Red-tENG. A public redacted version was filed on 27 September 2018: ICC-01/12-01/18-122-Red2-tENG.

<sup>29</sup> ICC-01/12-01/18-122-Red2-tENG, p. 15.

<sup>30</sup> ICC-01/12-01/15-45-Conf-Exp. An *ex parte* confidential redacted version available also to the Defence was filed on 20 November 2015: ICC-01/12-01/15-45-Conf-Exp-Red. A public redacted version was filed on 2 December 2015: ICC-01/12-01/15-45-Red2.

<sup>31</sup> [REDACTED]

<sup>32</sup> [REDACTED]

<sup>33</sup> ICC-01/12-01/15-53-Conf, p. 7. A public redacted version was issued on 8 December 2015: ICC-01/12-01/15-53-Red.



The Single Judge found that “the personal, social and professional circumstances of P-0114”, “assessed in light of the increasingly deteriorating security situation overall in Mali, including in the area where the Witness and the Witness’s family reside, are such as to create an appreciable risk that either the Witness and/or the Witness’s family might become the target of acts of retaliation, were P-0114’s involvement in the activities of the Court be known.”<sup>34</sup> The Single Judge “note[d] that no less intrusive measures apt to neutralise that risk can be feasibly envisaged at this stage.”

[REDACTED]

[REDACTED]

[REDACTED].”<sup>35</sup>

#### *Al Hassan case*

25. By application filed on 3 October 2018 in the *Al Hassan* case,<sup>36</sup> the Prosecution requested authorisation to continue withholding the identity of protected Witness P-0114, upon whose evidence the Prosecution intended to rely at the confirmation hearing in the *Al Hassan* case, including by *inter alia* applying additional redactions to the witness’s existing statement.<sup>37</sup> [REDACTED]<sup>38</sup> [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].”<sup>39</sup>

#### P-0147

#### *Al Mahdi case*

<sup>34</sup> [REDACTED].

<sup>35</sup> [REDACTED].

<sup>36</sup> ICC-01/12-01/18-141-Conf-Exp. An *ex parte* confidential redacted version also available to the Defence was filed on the same day: ICC-01/12-01/18-141-Conf-Exp-Red. A public redacted version was filed on 12 December 2018: ICC-01/12-01/18-141-Red2.

<sup>37</sup> ICC-01/12-01/18-141-Red2, paras. 1-4.

<sup>38</sup> [REDACTED]

<sup>39</sup> [REDACTED].

26. On 7 December 2015,<sup>40</sup> the Prosecution filed a request in the *Al Mahdi* case to disclose an anonymous summary of the witness statement *inter alia* of P-0147, upon whose evidence the Prosecution did not intend to rely at the confirmation of charges hearing, but whose statement contained information falling within the scope of article 67(2) of the Statute or rule 77 of the Rules.<sup>41</sup>

27. In a decision dated 16 December 2015 and already discussed above,<sup>42</sup> the Single Judge of Pre-Trial Chamber I in the *Al Mahdi* case granted the Prosecution's application.

#### *Al Hassan* case

28. By application filed on 25 September 2018 in the *Al Hassan* case,<sup>43</sup> the Prosecution sought authorisation *inter alia* to disclose an updated anonymous summary of information obtained from Witness P-0147, on whose evidence the Prosecution anticipated relying at the confirmation of charges hearing.<sup>44</sup> [REDACTED]

[REDACTED]<sup>45</sup> [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]<sup>46</sup>

### IV. Applicable law

29. The factors applicable to determining whether to authorise the protective measure of non-disclosure of information are also relevant to protective measures' variation.

<sup>40</sup> ICC-01/12-01/15-55-Conf-Exp. An *ex parte* confidential redacted version also available to the Defence was filed on 11 December 2015. A public redacted version was filed on 26 October 2016.

<sup>41</sup> [REDACTED].

<sup>42</sup> ICC-01/12-01/15-61.

<sup>43</sup> ICC-01/12-01/18-134-Conf-Exp. An *ex parte* confidential redacted version also available to the Defence was filed on 26 September 2018: ICC-01/12-01/18-134-Conf-Exp-Red. A public redacted version was filed on 11 December 2018: ICC-01/12-01/18-134-Red2.

<sup>44</sup> ICC-01/12-01/18-134-Red2, paras. 1, 3, 5, 8, 24, 32.

<sup>45</sup> [REDACTED]  
[REDACTED].

<sup>46</sup> [REDACTED].

30. The Appeals Chamber has held that non-disclosure of information under rule 81(4) must be assessed on a case-by-case basis.<sup>47</sup> The following factors should be considered in determining whether to authorise non-disclosure of a witness's identity, namely: (1) the danger to the witness or to members of his or her family that the disclosure of his or her identity might cause;<sup>48</sup> (2) the necessity of the non-disclosure (and in particular the feasibility and sufficiency of less restrictive measures);<sup>49</sup> (3) whether the non-disclosure would be prejudicial to or inconsistent with the rights of the accused to a fair and impartial proceeding;<sup>50</sup> and (4) the relevance of the information to the Defence.<sup>51</sup> In addition, the stage of proceedings at which the non-disclosure is sought is also a relevant consideration in assessing these factors.<sup>52</sup> Furthermore, "[e]ven if non-disclosure is authorised, this determination must be kept under review and altered should changed circumstances make that appropriate."<sup>53</sup>

31. Regulation 42(3) of the Regulations governs applications to vary protective measures. Under regulation 42(4), before making a determination whether or not to vary protective measures, "the Chamber shall seek to obtain, whenever possible, the consent of the person in respect of whom the application to rescind, vary or augment protective measures has been made."

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<sup>47</sup> *Prosecutor v. Lubanga*, Judgement on Disclosure Restriction pursuant to Rule 81(2) and (4), ICC-01/04-01/06-568 OA3, 13 October 2006, paras. 36-37. *See also Prosecutor v. Katanga*, Judgment on Katanga's Appeal against the First Redaction Decision, ICC-01/04-01/07-476 OA2, 13 May 2008, paras. 52, 66 (referring to rule 81(2)).

<sup>48</sup> *Prosecutor v. Lubanga*, Judgment on Appeal against First Redaction Decision, ICC-01/04-01/06-773 OA5, 14 December 2006, para. 21.

<sup>49</sup> *Prosecutor v. Lubanga*, Judgment on Appeal against First Redaction Decision, ICC-01/04-01/06-773 OA5, 14 December 2006, para. 21; *Prosecutor v. Lubanga*, Judgment on Disclosure Restriction pursuant to Rule 81(2) and (4), ICC-01/04-01/06-568 OA3, 13 October 2006, para. 37.

<sup>50</sup> *Prosecutor v. Lubanga*, Judgment on Appeal against First Redaction Decision, ICC-01/04-01/06-773 OA5, 14 December 2006, para. 21.

<sup>51</sup> *Prosecutor v. Katanga*, Judgment on Katanga's Appeal against the First Redaction Decision, ICC-01/04-01/07-476 OA2, 13 May 2008, para. 62.

<sup>52</sup> *See Prosecutor v. Katanga*, Judgment on the Prosecution's Appeal against the First Redaction Decision, ICC-01/04-01/07-475 OA, 13 May 2008, paras. 59, 65.

<sup>53</sup> *Prosecutor v. Katanga*, Judgment on Katanga's Appeal against the First Redaction Decision, ICC-01/04-01/07-476 OA2, 13 May 2008, para. 64.

## V. Submissions

32. [REDACTED]  
[REDACTED]. [REDACTED]  
[REDACTED]. [REDACTED]  
[REDACTED]. At this stage, taking into account the purpose of the variation sought—to enable disclosure to the Defence for Mr Al Hassan in advance of trial in that case—and considering the relevance of these Witnesses' evidence, the security risks facing these Witnesses and the measures in place to mitigate those risks, it is the Prosecution's submission that the balance of the different interests militates in favour of varying the Witnesses' protective measures as sought in this application [REDACTED]  
[REDACTED].

### A. Variation of the applicable protective measures is sought for the purpose of disclosure to the *Al Hassan* Defence

33. The Single Judge of Pre-Trial Chamber I in the *Al Mahdi* case authorised the non-disclosure of these Witnesses' identity and identifying information, a protective measure which carried across pursuant to regulation 42(2) to the *Al Hassan* proceedings.

34. As noted, in both the *Al Mahdi* (for P-0114) and *Al Hassan* cases (for all Witnesses), the Prosecution was able to rely on the evidence of some or all of the Witnesses for the confirmation of charges hearing because the Court's statutory instruments permit withholding witnesses' identity prior to the commencement of trial (*see e.g.*: rule 81(4)).

35. In the *Al Mahdi* case, post-confirmation disclosure of these Witnesses' identity and identifying information proved unnecessary *inter alia* because Mr Al Mahdi pleaded guilty instead.

36. In the *Al Hassan* case, [REDACTED]

[REDACTED]

[REDACTED]<sup>54</sup> [REDACTED]

[REDACTED].

**B. Relevant factors for determining variation are the Witnesses' expected evidence and any risk to the Witnesses posed by disclosure to the *Al Hassan* Defence**

37. The Prosecution sets out below the information relating to the expected testimony of the Witnesses and to factors relevant to assessing any risk to them posed by disclosure of their identity to the Defence for Mr Al Hassan.

38. The Prosecution submits that factors relevant to the assessment of risk include the witness's personal circumstances, any existing protection or security measures in place for the witness, whether the witness or his or her family has received any threats on account of his or her perceived involvement with the Court, whether the witness himself or herself has taken any actions that might endanger his or her personal safety, and whether the witness has consented to disclosure of his or her identity.<sup>55</sup>

39. The Prosecution sets out this information below [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

40. [REDACTED]

<sup>54</sup> See e.g. article 64(2) (The Trial Chamber shall ensure that a trial is fair and expeditious and is conducted with full respect for the rights of the accused and due regard for the protection of victims and witnesses), article 68(1) (any appropriate measures to protect the safety of witnesses shall not be prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial), article 68(5) (for the purposes of any proceedings conducted prior to the commencement of the trial, the Prosecution may withhold such evidence or information and instead submit a summary thereof; such measures shall be exercised in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial), rule 81(4) (the Chamber may take the necessary steps to ensure the confidentiality of information in accordance with article 68, to protect the safety of witnesses and victims and members of their families, including by authorizing the non-disclosure of their identity prior to the commencement of the trial).

<sup>55</sup> See e.g.: ICC-01/12-01/15-61, para. 6 (enumerating similar factors).

[REDACTED]

[REDACTED]

[REDACTED].

P-0004

(i) [REDACTED]

41. [REDACTED].

(ii) additional significant personal circumstances

42. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

43. [REDACTED].

(iii) relevance of witness's evidence

44. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED],<sup>56</sup> [REDACTED]

[REDACTED].

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<sup>56</sup> [REDACTED]

[REDACTED].

(iv)

45.

46.

(v) whether witness consents to the variation

47.

P-0113

(i)

48.

(ii) additional significant personal circumstances

49.

50.

[REDACTED]

[REDACTED].

51. [REDACTED].

(iii) relevance of witness's evidence

52. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED],<sup>57</sup> [REDACTED]

[REDACTED].

(iv) [REDACTED]

53. [REDACTED]

[REDACTED].

54. [REDACTED]

[REDACTED].

(v) whether witness consents to the variation

55. [REDACTED]

[REDACTED]

[REDACTED].

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<sup>57</sup> [REDACTED]

[REDACTED].



P-0114

(i) [REDACTED]

56. [REDACTED].

(ii) additional significant personal circumstances

57. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

58. [REDACTED]  
[REDACTED].

(iii) relevance of witness's evidence

59. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

(iv) [REDACTED]

60. [REDACTED]

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<sup>58</sup> [REDACTED].

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

61. [REDACTED]

[REDACTED].

(v) whether witness consents to the variation

62. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

P-0147

(i) [REDACTED]

63. [REDACTED].

(ii) additional significant personal circumstances

64. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

65. [REDACTED]

[REDACTED]

(iii) relevance of witness's evidence

66. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] 59 [REDACTED]  
[REDACTED]  
[REDACTED] 60 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

(iv) [REDACTED]

67. [REDACTED]  
[REDACTED]

68. [REDACTED]  
[REDACTED]

69. [REDACTED]  
[REDACTED]

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59 [REDACTED]  
[REDACTED]  
60 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(v) whether witness consents to the variation

70. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**C. Other relevant factors include measures of protection [REDACTED]  
[REDACTED] and security situation update [REDACTED]**

71. The Prosecution keeps updating its witness security assessment for Mali in consultation with VWS [REDACTED]

[REDACTED].<sup>61</sup>

72. [REDACTED]

[REDACTED]

[REDACTED],<sup>62</sup> [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

73. [REDACTED]

[REDACTED]

[REDACTED]

<sup>61</sup> [REDACTED].

<sup>62</sup> [REDACTED].

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

74. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]  
[REDACTED]  
[REDACTED]

- [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

- [REDACTED]  
[REDACTED] 52 [REDACTED]  
[REDACTED]

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63 [REDACTED]

[REDACTED] <sup>64</sup> [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] <sup>65</sup>,  
[REDACTED] <sup>66</sup>).

75. [REDACTED]  
[REDACTED]  
[REDACTED].

## VI. Requested Relief

76. The Prosecution requests that the Single Judge grant the variation of the Witnesses protective measures and authorise the Prosecution to disclose the identity and identifying information of Witnesses P-0004, P-0113, P-0114 and P-0147 to the Defence for Mr Al Hassan, and to disclose their statements as well as the rest of their associated materials (with the implementation of standard redactions only). [REDACTED]  
[REDACTED]  
[REDACTED].



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Fatou Bensouda, Prosecutor

Dated this 30 January 2020  
At The Hague, The Netherlands

<sup>64</sup> [REDACTED]  
[REDACTED]  
[REDACTED]  
<sup>66</sup> [REDACTED].