

## Situation in the Republic of Mali

ICC-PIOS-Q&A-MAL-02-01/19\_ENG

Update: July 2019

### *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*

## Confirmation of charges hearing in the Al Hassan case,

8-17 July 2019

### WHAT IS A "CONFIRMATION OF CHARGES HEARING"?

The confirmation of charges hearing is not a trial. The confirmation of charges hearing is a public hearing during which a Pre-Trial Chamber of the International Criminal Court (ICC) decides whether or not to confirm all or any of the charges brought by the Prosecutor against a suspect – Mr Al Hassan, in this case. If any of the charges are confirmed, the suspect is committed for trial before a Trial Chamber.

At the hearing, in the presence of the suspect and his Counsel, the Prosecution is required to support each of the charges with sufficient evidence to establish substantial grounds to believe that Mr Al Hassan committed the crimes with which he is charged. The Prosecution may rely on documentary or summary evidence and/or call witnesses and experts. In this case, no witnesses or experts will be called by the parties at this stage of the proceedings.

The hearing will take place before Pre-Trial Chamber I, composed of Presiding Judge Péter Kovács, Judge Marc Perrin de Brichambaut and Judge Reine Alapini-Gansou. The Chamber will hear oral submissions in turn from the Prosecution, the Legal Representatives of the Victims and the Defence. The hearing is [scheduled](#) for 8 to 17 July 2019.

### WHO IS MR AL HASSAN AND WHAT IS HE CHARGED WITH?

According to the [warrant of arrest](#) delivered by the judges, Mr Al Hassan, a Malian national from the Tuareg/Tamasheq Kel Ansar tribe, born on 19 September 1977 in the community of Hangabera, about 10 kilometres north of Goundam in the region of Timbuktu, Mali, was allegedly a member of Ansar Dine and the de facto chief of the Islamic Police. He is also alleged to have been involved in the work of the Islamic court in Timbuktu and to have participated in executing its decisions. Mr Al Hassan is further alleged to have taken part in the destruction of the mausoleums of Muslim saints in Timbuktu through Islamic Police forces on the ground, and to have participated in the policy of forced marriage which victimized the female population of Timbuktu and resulted in the rape and the sexual enslavement of women and girls.

The Chamber issued the warrant of arrest, finding that there were reasonable grounds to believe that Mr Al Hassan is criminally responsible under article 25(3)(a) or 25(3)(b) of the Rome Statute for committing in Timbuktu, Mali, between April 2012 and January 2013, crimes against humanity (torture; rape and sexual slavery; persecution of the population of Timbuktu on religious and gender grounds; and other inhumane acts) and war crimes (rape and sexual slavery; violence to person and outrages upon personal dignity; intentionally directing attacks against buildings dedicated to religion and against historic monuments; and the passing of sentences without previous judgment pronounced by a regularly constituted court affording all judicial guarantees which are generally recognized as indispensable).

### WILL VICTIMS BE PARTICIPATING IN THIS HEARING?

The judges have given over 880 victims permission to participate in the hearing. They will not be in the courtroom but will be represented by their legal representatives, Seydou Doumbia, Mayombo Kassongo and Fidel Nsita Luvengika.

The legal representatives of victims will attend the hearing and make opening and closing statements, explaining why the victims wish to participate in the proceedings and how their personal interests are affected. The legal representatives will also be able to make submissions on matters of fact and law which might affect the interests of their clients.

### WHO IS DEFENDING MR AL HASSAN?

Melinda Taylor and Marie-Hélène Proulx are Counsel for the defence of Mr Al Hassan. Defence Counsel may object to the charges, respond to Prosecution evidence and present exculpatory evidence.

### WHO PAYS FOR MR AL HASSAN'S DEFENCE?

The ICC bears the cost of his defence, in accordance with the legal aid scheme. Pending verification by the Court, Mr Al Hassan has been provisionally found indigent, meaning that he cannot afford to pay for his defence.

## WHAT ARE THE POSSIBLE OUTCOMES OF THE CONFIRMATION HEARING?

Within 60 days of the hearing, the Pre-Trial Chamber will deliver a decision, in which it may:

- confirm those charges for which the Chamber has determined that there is sufficient evidence, and commit the suspect to trial before a Trial Chamber;
- decline to confirm those charges for which it has determined that there is insufficient evidence and stop the proceedings against Mr Al Hassan;
- adjourn the hearing and request the Prosecutor to provide further evidence, to conduct further investigations or to amend any charge for which the evidence submitted appears to establish a crime other than the one charged was committed .

The Defence and the Prosecution are not automatically entitled to appeal this decision but they can request authorisation from the Pre-Trial Chamber to do so.

## WHEN WILL THE PRE-TRIAL CHAMBER MAKE ITS DECISION?

The ICC Pre-Trial Chamber will deliver its written decision within 60 days of the date on which the confirmation hearing ends. In addition to the oral submissions to be made during the confirmation hearing, Pre-Trial Chamber I requires final written submissions from the Prosecution and the Legal Representatives of the Victims by 24 July 2019 and from the Defence by 31 July 2019. The 60-day time frame for delivery of the decision will run upon receipt of the Defence submissions on 31 July 2019.

## WHAT WILL HAPPEN IF THE CHARGES ARE CONFIRMED?

If the Pre-Trial Chamber finds that there is sufficient evidence to support the charges, it will commit Mr Al Hassan for trial. The Presidency of the Court will constitute a Trial Chamber responsible for conducting the subsequent phase of the proceedings and composed of three judges other than those who sat on the Pre-Trial bench.

Promptly after it is constituted, the Trial Chamber will hold status conferences, confer with the parties and participants in order to set the date of the trial and adopt the procedures necessary to facilitate the fair and expeditious conduct of the proceedings. The Chamber will rule on several preliminary issues, including the language(s) to be used at trial, and the timing and the manner of disclosure of evidence.

## WHERE IS MR AL HASSAN CURRENTLY BEING DETAINED?

Since his transfer to the Court on 31 March 2018, Mr Al Hassan has been detained at the ICC Detention Centre in Scheveningen, The Hague, The Netherlands. The Detention Centre meets the highest international human rights standards for the treatment of detainees. Detained persons are presumed by the Court to be innocent until proven guilty beyond reasonable doubt.

## WHO ARE THE JUDGES SITTING IN THIS CASE?

Pre-Trial Chamber I is composed of Presiding Judge Péter Kovács (Hungary), Judge Marc Perrin de Brichambaut (France) and Judge Reine Alapini-Gansou (Benin).

The Judges of the ICC are persons of high moral character, impartiality and integrity who possess the qualifications required in their respective States for appointment to the highest judicial offices. All have extensive experience relevant to the Court's judicial activity. They are elected by the Assembly of States Parties on the basis of their established competence in criminal law and procedure and in relevant areas of international law such as international humanitarian law and human rights law.