



Summary of the Sentencing Judgment in the case of *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*

1. Welcome and appearances.
2. In today's hearing, Trial Chamber X of the International Criminal Court delivers its Sentencing Judgment in the case of *The Prosecutor v. Al Hassan*. By a decision of the Presidency, the Chamber sits in a new composition compared to the one that delivered the trial judgment in this case earlier this year on the 26th of June, with Judge Keebong Paek replacing Judge Mindua.
3. The present summary conveys the findings in the sentencing judgment that are most relevant for the public. The Chamber's detailed reasoning is set out in the written Sentencing Judgment, which is the only authoritative document. That judgment will be published and made available to the public shortly after this hearing today.
4. **[This paragraph will be read in French:** The sentencing phase is an important milestone in this trial which began in 2020 and through which Mr Al Hassan was convicted for several war crimes and crimes against humanity, committed in Timbuktu between May 2012 and January 2013, and acquitted of other such crimes. The present sentencing stage represents a significant opportunity to recognise the harm suffered by victims of the convicted crimes. This harm, particularly for the crime of persecution, which targeted the entire population of the city of Timbuktu in 2012/2013, was far reaching and long lasting. This stage of proceedings underscores the importance of accountability, acknowledgment of this harm caused to the victims and the international community's commitment to condemning the serious crimes committed in this case.]
5. Je vais maintenant poursuivre en français.
6. Le prononcé de la peine est une étape cruciale dans cette affaire qui a commencé en 2020 et dans laquelle Monsieur Al Hassan a été condamné pour certains crimes de

guerre et crimes contre l'humanité commis à Tombouctou entre mai 2012 et janvier 2013, et acquitté pour d'autres. La phase de prononcé de la peine représente en effet une opportunité particulière de reconnaître la souffrance et le préjudice causé aux victimes des crimes concernés. Ce préjudice, notamment en ce qui concerne le crime de persécution qui a visé l'ensemble de la population de Tombouctou en 2012-2013, est conséquent et a eu des répercussions à long terme. Ce stade de l'affaire met en exergue l'importance de la reconnaissance de la responsabilité des auteurs des crimes, du préjudice causé aux victimes et de l'engagement de la communauté internationale de condamner les crimes graves commis dans cette affaire.

7. I will now continue in English.

8. Turning to the determination of the sentence, the Prosecution in this case recommended a joint sentence of no less than 22 years imprisonment. The legal representatives of victims conveyed statements from their clients that Mr Al Hassan should stay in prison for 'a long time' or be given a life sentence. The Defence recommended a sentence of 'time served'.
9. In its Sentencing Judgment the Chamber addresses sentencing in two steps as required by the ICC's legal framework. First, the Chamber pronounces an individual sentence for each of the eight crimes for which Mr Al Hassan was convicted. Second, the Chamber specifies a joint sentence.
10. In determining the individual sentences, the Chamber assesses the gravity of the crimes, including the degree of Mr Al Hassan's participation and intent, as well the presence of any aggravating and mitigating circumstances, and Mr Al Hassan's individual or personal circumstances. In discussing the crimes, the Chamber has grouped crimes together which are underpinned by the same or similar conduct.
11. In making some overall comments on the degree of Mr Al Hassan's participation and intent as regards the various crimes, the Chamber emphasises that Mr Al Hassan's liability for the majority of his conviction is based on his *contribution* to crimes committed by other members of the groups Ansar Dine and Al-Qaida in the Islamic Maghreb, or 'AQIM'. His responsibility in this context arises primarily due to his role

within the Islamic Police set up by these groups in Timbuktu in 2012/2013, and the role of the Islamic Police in the repressive system created by Ansar Dine/AQIM. The nature of each of those roles was considerable. At the same time, Mr Al Hassan was not a central figure in the Ansar Dine/AQIM leadership apparatus and he was not among the persons within Ansar Dine/AQIM who designed the groups' criminal common purpose.

12. The Chamber rejects the Defence's overall characterisation of Mr Al Hassan's role and participation in and contribution to the various crimes as 'minimal', but also declines to find that the crimes in this case are aggravated, as suggested by the Prosecution and legal representatives of victims, by Mr Al Hassan's 'zealous' use of his role, or by an abuse of authority.
13. In its crime specific analysis, the Chamber finds the crime of **persecution** in this case to be of serious gravity. This crime was committed on a significant scale in which the entire population of the city of Timbuktu was targeted and was the subject of the deprivation of fundamental rights. The crime was also committed over a substantial time period spanning May 2012 to January 2013. Restrictions imposed by Ansar Dine/AQIM impacted all aspects of the life of the people of Timbuktu, forbidding or placing strict restrictions on religious, traditional, social and cultural practices and daily activities.
14. The acts had a significant reach, regulating the conduct of individuals in the public space and the privacy of their homes, and were violently imposed through surveillance and punishment including acts of violence, force, intimidation, confiscation and destruction. This regime and acts had a traumatic effect on the population of Timbuktu, which lived in an atmosphere of fear, violence, oppression and humiliation, and remains present in the mind of victims as a deep seated trauma. Some victims targeted were particularly vulnerable, being children and the elderly. The restrictions imposed also had a specific and disproportionate impact on female members of the Timbuktu population. It affected their ability to work and earn money and they lived in fear of arrest and punishment which as expressed "could happen whatever they did to respect the rules and prohibitions." For some the atmosphere of fear was such that they no longer left their homes. . While the Chamber is aware of the disappointment expressed by many victims in the acquittal of Mr Al Hassan, by majority, of some crimes in the trial judgment, in particular sexual violence crimes, and persecution on gender grounds,

the Chamber has explicitly highlighted this specific impact of the convicted crime of persecution on female victims in the Sentencing Judgment.

15. The Chamber also finds the crimes of **torture, other inhumane acts, cruel treatment, outrages upon personal dignity, and mutilation**, to be of serious gravity. These crimes concerned punishments – namely floggings and the amputation of a victim’s hand - for breaches of Ansar Dine/AQIM’s rules and prohibitions. In assessing the gravity of these crimes the Chamber emphasises their public nature, being punishments mostly proclaimed in advance and carried out in front of large crowds of people, including children. The carrying out of punishments in this humiliating manner in the forum of a public spectacle not only heightened the distress and suffering experienced by those who were punished, but also exposed members of the Timbuktu population, including children, to violent scenes. Some of the punishment victims were particularly vulnerable, being children or elderly. The impact on the victims was significant, and often had long-term consequences. These crimes were also committed on a discriminatory basis on religious grounds, to deter the population of Timbuktu, whom Ansar Dine/AQIM perceived as ‘ignorant’ and not ‘real Muslims’ from violating the groups’ rules and prohibitions.
16. In relation to the degree of Mr Al Hassan’s participation and intent, apart from instances where his liability was based on his *contribution* to the relevant crimes, Mr Al Hassan also *directly perpetrated* the crimes of torture and outrages upon personal dignity against two individuals whom he personally flogged, and *aided, abetted or otherwise assisted* the commission of the same crimes against eight individuals through his presence and participation at their flogging events, where he ensured the security of the events and the efficient and effective implementation of the sanctions in his capacity as a key member of the Islamic Police.
17. Finally, the Chamber finds the crime of **sentencing without due process** in this case, while still grave, to be of less serious gravity, in the specific circumstances before us, than other crimes under consideration. Mr Al Hassan’s case represents the first conviction at the ICC for this crime, which concerned, in this instance, sentences handed down in the form of physical punishments without a previous judgment by a court, and judicial sentences passed by the Islamic Court established by Ansar Dine/AQIM in Timbuktu during the relevant period. This court did not afford the

essential guarantee of independence and impartiality due to its control by Ansar Dine/AQIM's leadership and the promotion in the court of Ansar Dine/AQIM's interests.

18. This crime was committed in a systematic manner over a substantial period of time between May 2012 and January 2013, against 49 individuals. Some of the victims were children or elderly, and some of the sentences executed were violent and resulted in significant harm. Certain features of the proceedings before the Islamic Court were also unfair for accused persons. Mr Al Hassan had a comparatively high degree of participation and intent in this crime, in light of the fact that his liability is based on his contribution to Ansar Dine/AQIM's system of repression and in particular his involvement in the work of the Islamic Court as a member of the Islamic Police. In respect of 15 of the victims, Mr Al Hassan had a higher degree of involvement in their cases, noting that he wrote the police reports concerning them..

19. Finally, there were some positive aspects to the Islamic Court - notably the institution was created partly to fill a justice and security vacuum in the region after the departure of the Malian authorities and to provide a forum for locals to resolve their disputes. However collateral or broad positive aspects of the work of the Islamic Court in general cannot, as alleged by the Defence, in any way lessen the gravity of the crime of sentencing without due process for which Mr Al Hassan was convicted.

20. The Prosecution and legal representatives of victims had argued that several aggravating factors were applicable to the convicted crimes, including multiplicity and defencelessness of victims, particular cruelty in the conduct of the crimes, and discriminatory motive. The Chamber declines to characterise these factors as aggravating, instead taking some of them into account in assessing the gravity of the relevant crimes, like number and particular vulnerability of victims and the way crimes were carried out, and declining to take others into account.

21. Finally, in determining the individual sentences, the Chamber also considers the personal circumstances of Mr Al Hassan and mitigating circumstances put forward by the Defence. The Defence argued that many such circumstances warranted a reduction

in sentence including expression of remorse and Mr Al Hassan's personal circumstances at the time of events.

22. Of these, the Chamber finds that only two circumstances can be taken into account in mitigation. The first is good actions undertaken by Mr Al Hassan to assist the civilian population in 2012-2013. However, these actions were minor in nature and can only be accorded very limited weight in the determination of Mr Al Hassan's sentence, particularly considering the nature of the crimes for which he has been convicted. The second is Mr Al Hassan's cooperation with the Prosecution at the investigation stage of this case, which materialised in lengthy statements introduced into evidence and relied on in the trial judgment. On this subject, the Chamber finds unpersuasive the Prosecution's submission that Mr Al Hassan's cooperation was negated by his later, unsuccessful, objection to the introduction of his statements into evidence
23. Importantly, the existence of these mitigating circumstances should not be understood as lessening, in any way, the gravity of the crimes that were committed, including the impact they had on the victims.

24. Mr Al Hassan, please stand up.

25. Weighing and balancing all the relevant factors, the Chamber pronounces the following individual sentences:

- for other inhumane acts as a crime against humanity and cruel treatment as a war crime (which concerned the flogging of one individual) (Counts 2 and 4): **2 years** each;
- for the war crime of mutilation (which concerned the amputation of the hand of one individual) (Count 14): **5 years**;
- for the war crime of sentencing without due process (Count 6): **6 years**;
- for the war crime of outrages upon personal dignity (Count 5): **8 years**;
- for torture as a crime against humanity and as a war crime (Counts 1 and 3): **9 years** each; and

- for persecution as a crime against humanity (Count 13): **10 years** of imprisonment This also constitutes the highest individual sentence. This sentence is pronounced by majority, with Judge Akane considering that 8 years was appropriate for the reasons expressed in the judgment.

26. According to the Court's legal framework, the Chamber shall now pronounce a joint sentence. This joint sentence cannot be lower than the highest individual sentence, which is 10 years in this case, and cannot be higher than 30 years of imprisonment unless the extreme gravity of the crimes and convicted person's individual circumstances warrant life imprisonment. In this particular case, taking into account the substantial overlap between various crimes, the Chamber sentences Mr Al Hassan to a joint sentence of **10 years** imprisonment.

27. The Chamber considers that this joint sentence is proportionate to the gravity of the crimes and the individual circumstances and culpability of Mr Al Hassan. It adequately reflects the strong condemnation by the international community of the crimes committed by him and acknowledges the significant harm and suffering caused to the victims. It is also adequate with a view to deterring others from committing similar crimes in the future and discouraging Mr Al Hassan's own recidivism.

28. Mr Al Hassan you can sit down now.

29. Finally, the Chamber notes that time spent in detention by Mr Al Hassan in accordance with an order of this Court, namely since **28 March 2018**, will be deducted from the sentence imposed on him today. The Chamber, in its discretion, has rejected a Defence request to deduct additional time spent by Mr Al Hassan in detention in Mali since 21 April 2017.

30. Today's Sentencing Judgment may be appealed by Mr Al Hassan and the Prosecution within 30 days. Reparations to victims will be addressed in due course.

31. The Chamber would like to thank all of the parties and participants, as well as all the staff from the Registry for their tireless efforts during this trial. The Chamber also wishes to convey its special thanks to the members of the public and the victims watching here today in the public gallery and online, from Mali and around the world.
32. This concludes today's hearing.