

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **French**

No.: **ICC-01/12-01/18**

Date: **2 July 2018**

**PRE-TRIAL CHAMBER I**

**Before: Judge Péter Kovács, Single Judge**

**SITUATION IN THE REPUBLIC OF MALI**

**IN THE CASE OF  
*THE PROSECUTOR v. AL HASSAN AG ABDOUL AZIZ  
AG MOHAMED AG MAHMOUD***

**Public Document**

**Decision Instructing Parties to File Observations on a Possible Postponement of  
the Confirmation of Charges Hearing**

**Decision to be notified in accordance with regulation 31 of the Regulations of the Court to:**

**Office of the Prosecutor**

Ms Fatou Bensouda

Mr James Stewart

**Counsel for the Defence**

Mr Yasser Hassan

**Legal Representatives of Victims**

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparations**

**States' Representatives**

**Office of Public Counsel for the  
Defence**

**REGISTRY**

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**Registrar**

Mr Peter Lewis

**Counsel Support Section**

**Victims and Witnesses Section**

Mr Nigel Verrill

**Detention Section**

**Victims Participation and Reparations  
Section**

**Other**

**Judge Péter Kovács**, having been designated by **Pre-Trial Chamber I** (“Chamber”) of the International Criminal Court (“Court”) as Single Judge responsible for carrying out the functions of the Chamber in the case of *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud* as of 28 March 2018,<sup>1</sup> hereby renders this decision.

## **I. Procedural history**

1. On 27 March 2018, pursuant to article 58 of the Rome Statute (“Statute”), the Chamber issued a warrant of arrest for Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud (“Mr Al Hassan”).<sup>2</sup>

2. On 31 March 2018, Mr Al Hassan was surrendered to the Court, and he is currently in custody at the Court’s detention centre in The Hague.<sup>3</sup>

3. On 4 April 2018, a hearing for Mr Al Hassan’s first appearance was held, during which the date for the commencement of the confirmation of charges hearing was set for Monday, 24 September 2018.<sup>4</sup>

4. On 16 May 2018, the Single Judge issued the “*Décision relative au système de divulgation et à d’autres questions connexes*” (“Decision on the System of Disclosure”).<sup>5</sup>

5. On 22 May 2018, the Chamber issued the “*Décision relative à la requête du Procureur aux fins de délivrance d’un mandat d’arrêt à l’encontre d’Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*”.<sup>6</sup>

6. On 1 June 2018, the Single Judge issued the “*Décision relative à la requête de la défense sollicitant la traduction en arabe de la requête du Procureur aux fins de délivrance d’un mandat d’arrêt*”.<sup>7</sup>

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<sup>1</sup> “Decision Designating a Single Judge”, 28 March 2018, reclassified as public on 31 March 2018, ICC-01/12-01/18-6-tENG.

<sup>2</sup> “Warrant of Arrest for Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud”, 27 March 2018, reclassified as public on 31 March 2018, ICC-01/12-01/18-2-tENG.

<sup>3</sup> ICC-01/12-01/18-11-US-Exp.

<sup>4</sup> Transcript of the first appearance hearing, 4 April 2018, ICC-01/12-01/18-T-1-Red-ENG.

<sup>5</sup> ICC-01/12-01/18-31.

<sup>6</sup> ICC-01/12-01/18-35-Red2.

7. On 29 June 2018, the Single Judge issued the “Decision on the In-Depth Analysis Chart of Disclosed Evidence”, in which it instructed the Prosecution to immediately begin the process of disclosing evidence and communicating it to the Chamber, in accordance with the instructions provided in the Decision on the System of Disclosure.<sup>8</sup>

## II. Applicable law and request for observations

8. The Single Judge notes article 61 of the Statute and rule 121 of the Rules of Procedure and Evidence (“Rules”).

9. In view of the specific circumstances of the present case and the difficulties stemming, in particular, from the challenging security situation in Mali, as previously indicated by the Registry<sup>9</sup> and the Prosecution,<sup>10</sup> the Single Judge deems it necessary to consider a possible postponement of the confirmation of charges hearing.

10. With a view to possibly setting a new date for the commencement of the hearing, the Single Judge wishes to receive the parties’ observations on the need to postpone the confirmation of charges hearing and the date on which they consider it could be held.

11. As far as the Prosecution is concerned, these observations must indicate the number of requests the Prosecution intends to submit to the Single Judge and the date by which it could submit all of its requests concerning: (1) protective measures for witnesses, especially those requests seeking authorization to not disclose the

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<sup>7</sup> ICC-01/12-01/18-42.

<sup>8</sup> ICC-01/12-01/18-61, p. 11.

<sup>9</sup> “Registry Observations on Aspects Related to the Admission of Victims for Participation in the Proceedings”, 9 May 2018, ICC-01/12-01/18-28-Conf, paras. 7 and 8. This document was reclassified as public on 11 May 2018.

<sup>10</sup> See, for example, “*Requête urgente du Bureau du Procureur aux fins de délivrance d’un mandat d’arrêt et de demande d’arrestation provisoire à l’encontre de M. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*”, 20 March 2018, ICC-01/12-01/18-1-Secret-Exp. A confidential, *ex parte* version available only to the Office of the Prosecutor and the Defence team for Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud (ICC-01/12-01/18-1-Conf-Exp-Red2) and a public redacted version (ICC-01/12-01/18-1-Red) of the request were filed on 31 March 2018, paras. 9, 33, 308 and 309.

identity of witnesses to the Defence;<sup>11</sup> (2) redaction practices, in accordance with the Decision on the System of Disclosure,<sup>12</sup> namely requests for the non-disclosure of entire items; and (3) potential requests submitted by the Prosecution to the Single Judge under article 56 of the Statute.

12. Furthermore, the Prosecution is to indicate the time needed to finalize not only the transcripts of testimonies collected, but also the translations of the statements of Prosecution witnesses it intends to use for the confirmation of charges hearing, in accordance with its obligation under rule 76(3) of the Rules.

13. The Prosecution is also to inform the Single Judge of any other difficulties, in particular those related to the protection of witnesses, which it considers could delay the commencement of the confirmation of charges hearing.

14. Moreover, as far as the translation of documents is concerned, noting the Decision on the System of Disclosure<sup>13</sup> and the decision on the Defence request seeking an Arabic translation of the Prosecutor's application for the warrant of arrest,<sup>14</sup> the Single Judge wishes to receive from the Prosecution an indication of the number of translations remaining and the time needed to complete them and, from the Defence, observations on any other translation requests it intends to submit.

15. The Defence is also to inform the Single Judge of any other difficulties that it considers could delay the commencement of the confirmation of charges hearing.

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<sup>11</sup> See Decision on the System of Disclosure, para. 33.

<sup>12</sup> See Decision on the System of Disclosure, para. 33.

<sup>13</sup> Decision on the System of Disclosure, para. 26.

<sup>14</sup> 1 June 2018, ICC-01/12-01/18-42.

**FOR THESE REASONS, the Single Judge**

**INSTRUCTS** the Prosecution and the Defence to file their observations in accordance with paragraphs 10-15 above by Monday, 9 July 2018 at 16.00.

Done in both English and French, the French version being authoritative.

[signed]

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**Judge Péter Kovács**

**Single Judge**

Dated this 2 July 2018

At The Hague, Netherlands