

ANNEX
Public

Public redacted version of “Warrant for the Arrest of Iyad Ag Ghaly” issued on 18 July 2017 (ICC-01/12-01/17-1-Secret-Exp-tENG)



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PRE-TRIAL CHAMBER I

Before: Judge Cuno Tarfusser, Single Judge

SITUATION IN THE REPUBLIC OF MALI

**IN THE CASE OF
*THE PROSECUTOR v. IYAD AG GHALY***

Secret, ex parte

Only available to the Prosecutor and the Registrar

Warrant for the Arrest of Iyad Ag Ghaly

Warrant of arrest to be notified in accordance with regulation 31 of the Regulations of the Court to:

Office of the Prosecutor

Fatou Bensouda

James Stewart

Counsel for the Defence

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

Office of Public Counsel for Victims

**Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Herman von Hebel

Counsel Support Section

Victims and Witnesses Section

Detention Section

**Victims Participation and Reparations
Section**

Other

I, **Cuno Tarfusser**, designated¹ by Pre-Trial Chamber I (“Chamber”) of the International Criminal Court as Single Judge responsible for carrying out the functions of the Chamber in the situation in the Republic of Mali, issue the present decision on the application filed pursuant to article 58 of the Rome Statute (“Statute”) on 26 May 2017 (“Application”),² whereby the Prosecutor seeks the issuance of a warrant of arrest for

Iyad Ag Ghaly

who is also named Abou Fadl, was born in the Kidal Region, is in his sixties and is a Malian national and a member of the Tuareg ethnic group and the Ifoghas tribe.

I. Crimes within the jurisdiction of the Court for which the person’s arrest is sought

1. The Prosecutor alleges that Iyad Ag Ghaly is criminally responsible for the following war crimes and crimes against humanity within the jurisdiction of the Court:

- war crimes:
 - (a) murder of *hors de combat* soldiers committed in Aguelhoc on 24 January 2012 (articles 8(2)(c)(i) and 25(3)(a), 25(3)(d) and/or 28(a));
 - (b) rape, sexual slavery and any other form of sexual violence, committed in Timbuktu between April 2012 and January 2013 (articles 8(2)(e)(vi) and 25(3)(a), 25(3)(b), 25(3)(c), 25(3)(d) and/or 28(a));
 - (c) violence to person (mutilation, cruel treatment and torture) and outrages upon personal dignity (humiliating and degrading treatment), committed in Timbuktu between April 2012 and January 2013 (articles 8(2)(c)(i) and (ii), and 25(3)(a), 25(3)(b), 25(3)(c), 25(3)(d) and/or 28(a));
 - (d) attack intentionally directed against buildings dedicated to religion, and historic monuments, committed in Timbuktu between April 2012 and January 2013 (articles 8(2)(e)(iv) and 25(3)(a), 25(3)(b), 25(3)(c), 25(3)(d) and/or 28(a));

¹ ICC-01/12-24.

² [REDACTED].

- crimes against humanity:
 - (a) imprisonment or other severe deprivation of physical liberty, committed in Timbuktu between April 2012 and January 2013 (articles 7(1)(e) and 25(3)(a), 25(3)(b), 25(3)(c), 25(3)(d) and/or 28(a));
 - (b) rape, sexual slavery and any other form of sexual violence, committed in Timbuktu between April 2012 and January 2013 (articles 7(1)(g) and 25(3)(a), 25(3)(b), 25(3)(c), 25(3)(d) and/or 28(a));
 - (c) torture committed in Timbuktu between April 2012 and January 2013 (articles 7(1)(f) and 25(3)(a), 25(3)(b), 25(3)(c), 25(3)(d) and/or 28(a));
 - (d) other inhumane acts intentionally causing great suffering, or serious injury to body or to mental or physical health, committed in Timbuktu between April 2012 and January 2013 (articles 7(1)(k) and 25(3)(a), 25(3)(b), 25(3)(c), 25(3)(d) and/or 28(a));
 - (e) persecution of the population of Timbuktu on religious grounds (in connection with the crime referred to at article 8(2)(e)(iv) of attack intentionally directed against buildings dedicated to religion, and historic monuments) committed in Timbuktu between April 2012 and January 2013 (articles 7(1)(h) and 25(3)(a), 25(3)(b), 25(3)(c), 25(3)(d) and/or 28(a));
 - (f) persecution of the women and young girls of Timbuktu on gender grounds (in connection with the crimes of imprisonment or other severe deprivation of physical liberty, rape, sexual slavery, any other form of sexual violence, violence to person, outrages upon personal dignity, torture and other inhumane acts), committed in Timbuktu between April 2012 and January 2013 (articles 7(1)(h) and 25(3)(a), 25(3)(b), 25(3)(c), 25(3)(d) and/or 28(a)).

II. Concise statement of the facts and specific reference to the crimes within the jurisdiction of the Court

2. Under article 58(3) of the Statute, a warrant of arrest shall contain (i) “[t]he name of the person and any other relevant identifying information”; (ii) “[a] specific reference to the crimes within the jurisdiction of the Court for which the person’s

arrest is sought"; and (iii) "[a] concise statement of the facts which are alleged to constitute those crimes."

3. For the sake of clarity and coherence, it is appropriate to present the concise statement of the essential facts which the Prosecutor alleges against Iyad Ag Ghaly on the basis of the supporting evidence.

4. The allegations which the Prosecutor advances against Iyad Ag Ghaly find support in numerous relevant, objective and specific items of evidence appended to the Application, including [REDACTED] and written records which the national authorities made of interviews; video- and audio-recordings and photographs; documents from armed groups or the Malian army; expert reports; documents and reports from international and national organizations; NGO reports and media reports.

5. Having looked at the Application and the appended evidence, the Single Judge is satisfied that the essential facts set out in detail in the Application and subsequently recapitulated in this warrant of arrest are proven to the evidentiary standard laid down at article 58(1)(a) of the Statute: "reasonable grounds to believe" that the person committed a crime within the jurisdiction of the Court.

6. Specifically, the Single Judge is satisfied that the facts alleged by the Prosecutor occurred in the context of an armed conflict of a non-international character which erupted in Mali in January 2012. In that protracted confrontation, Malian State forces faced a number of armed groups, including Ansar Dine, Al-Qaida in Islamic Maghreb (AQIM) and the *Mouvement National de Libération de l'Azawad* [National Movement for the Liberation of Azawad] (MNLA). As of January 2012, these armed groups waged a military campaign in the Kidal Region, which began with the attack on Ménak on 17 January 2012 by the MNLA and the attack on Aguelhoc on 24 January 2012 by Ansar Dine, which had Iyad Ag Ghaly at the helm, and AQIM. In that military campaign, these armed groups overran a number of Malian military bases between January 2012 and mid-March 2012. In late March 2012, the three major cities in northern Mali (Kidal, Gao and Timbuktu) fell and the MNLA declared the Azawad

region independent – a declaration which the international community did not recognize.

7. The evidence presented by the Prosecutor shows that the level of intensity of the armed conflict exceeded that of internal disturbances and tensions and that the armed groups involved in the conflict were both structured and organized, given their military capacity to score victories against the Malian army, as attested by their capture of the city of Timbuktu. They went on to control and govern the city for around 10 months. The Single Judge also sees nothing in the evidence to indicate that the armed conflict became international.

8. The evidence presented by the Prosecutor further shows Iyad Ag Ghaly to be the founder of the group Ansar Dine. He was its undisputed leader and someone with much influence in the wider region. He also possessed extensive military experience and forged an alliance with the armed group AQIM. To this day, Iyad Ag Ghaly continues to head the group Ansar Dine.

The attack against the Aguelhoc military camp on 24 January 2012

9. The Single Judge is satisfied that the crimes committed in Aguelhoc are connected to the armed conflict of a non-international character between Malian government forces and a number of armed groups. Although the attack on the Aguelhoc camp occurred at the start of the conflict, the evidence presented by the Prosecutor shows that the camp was militarily strategic on account of its prime geographic position in relation to the entire Malian military presence in the north of the country. Aguelhoc was a key military objective in the conquest of northern Mali which the armed groups launched in January 2012.

10. Turning to the attack on the Aguelhoc military camp and the alleged crimes, the Single Judge is satisfied of the facts that follow. On 24 January 2012, after an initial attack, repulsed on 18 January, and a blockade of the camp from 18 to 23 January, Ansar Dine and AQIM forces staged a joint attack on the Aguelhoc camp. The attackers, numerous and well-equipped, overran the camp in a matter of hours. During the assault and in its immediate aftermath, the groups Ansar Dine and AQIM executed at least 40 *hors de combat* soldiers.

11. To be specific, upon entering the camp, the assailants killed five Malian soldiers who had laid down their arms to signal their intention to surrender. The attackers also entered the camp's infirmary and killed soldiers wounded during the assault of 18 January, as well as the nurse.

12. After the hostilities, the assailants conducted systematic house-to-house searches in and around Aguelhoc for fleeing Malian soldiers, killing on the spot any they found. At least 30 *hors de combat* soldiers were executed just outside the camp, among them at least 20 *hors de combat* soldiers who were lined up in front of the camp's gate, their hands bound behind their backs, and shot dead.

13. Iyad Ag Ghaly spearheaded the attack which Ansar Dine led in coordination with AQIM. After the attack on 18 January 2012 was repulsed, Iyad Ag Ghaly decided to dispatch a messenger to the commander of Aguelhoc, to order him to lay down arms and give up the camp. Iyad Ag Ghaly was in the Aguelhoc area during the attack and personally issued the order to open fire with heavy weaponry then. He was in direct contact with the combatants during the attack and after hostilities had ended. He inspected the camp and had himself filmed while doing so. Iyad Ag Ghaly had the authority, the power and the means of leading and coordinating the attack.

14. The deliberate and organized way in which the *hors de combat* soldiers were executed during and after the attack and tracked down and shot, suggests that the murders were not spontaneous but were instead part of the plan of attack. Given his position as head of Ansar Dine and leader of the attack and his presence in the camp just after it was captured, Iyad Ag Ghaly knew that the murders of *hors de combat* soldiers were part of the plan of attack and endorsed it. Furthermore, it is apparent [REDACTED] that those executions were retaliation for the Malian soldiers' refusal to surrender and leave the Aguelhoc camp, even though Iyad Ag Ghaly [REDACTED] had ordered them to do so.

15. Accordingly, the Single Judge is satisfied that the evidence presented by the Prosecutor establishes reasonable grounds to believe that Iyad Ag Ghaly is criminally responsible (i) for committing, jointly with other persons, a war crime in Aguelhoc on 24 January 2012, *viz.* the murder of *hors de combat* soldiers, or in any other way

contributing to the commission of such a crime, within the meaning of articles 8(2)(c)(i), 25(3)(a) and 25(3)(d) of the Statute; and/or, (ii) as a military commander, for the commission of the aforementioned war crime on 24 January 2012 by subordinates under his effective authority and control, within the meaning of articles 8(2)(c)(i) and 28(a) of the Statute.

16. The Single Judge does not consider it necessary, at this stage of the proceedings, to rule on the precise form of individual responsibility that could be attributed to Iyad Ag Ghaly.

The rule of Timbuktu from early April 2012 to January 2013

17. The Single Judge is satisfied that the rule of Timbuktu and the crimes committed are connected to the armed conflict of a non-international character which gripped Mali in early January 2012. Faced with an imminent attack by armed groups, the civilian and military authorities of Timbuktu left the city on 31 March 2012. The next day, a local Arab militia looted the city and withdrew. Thereafter, the MNLA entered the city, followed by the groups Ansar Dine, with Iyad Ag Ghaly at the helm, and AQIM; they seized control of the city and expelled the MNLA.

18. The Single Judge is also satisfied of the existence of a widespread and systematic attack directed against the civilian population of Timbuktu during the material period.

19. On the evidence presented by the Prosecutor, it appears that for almost 10 months, from early April 2012 to January 2013, the city of Timbuktu was under the control of the groups Ansar Dine and AQIM, which cooperated and worked together closely in ruling the city and, more widely, in the armed conflict against the armed forces of Mali.

20. The armed groups, under the leadership of Iyad Ag Ghaly, entirely replaced the government authorities with their own institutions and introduced an apparatus of repression to impose a new order in line with their religious and political requirements. That order incorporated new rules and new prohibitions which affected the various facets of the private, social and religious lives of the population of Timbuktu and were made official in documents signed by the leaders of the armed

groups. The new order was imposed through the introduction of the following organizations: an Islamic police force, a morality police force (*Hisbah*), an Islamic court and an office responsible for the media.

21. The introduction of the new order was announced to the population in no uncertain terms. After the takeover of the city, Iyad Ag Ghaly delivered a speech over the radio. He introduced himself as the new “[TRANSLATION] boss”, announced that Mali and the Malian authorities no longer existed and set out the new order. To impose this doctrine on the population of Timbuktu, Ansar Dine and AQIM used violence and intimidation and laid down prohibitions, punishable by, *inter alia*, physical punishment carried out in public.

22. The imposition of the new order and the penalties for transgression was systematic and widespread: compulsory written instructions on how to impose the prohibitions were promulgated by the police, the *Hisbah* and the members of the armed groups; the new rules were announced at meetings with the local population, in broadcasts on local radio and on billboards; the Ansar Dine spokesperson announced the resolve of Ansar Dine and AQIM forces to carry out the prescribed penalties for failure to observe the rules imposed; the Islamic Police conducted patrols of the city to ensure compliance with the rules; the *Hisbah* was tasked with punishing any behaviour regarded as immoral; the office responsible for the media oversaw media activities and propaganda; and the Islamic Court decided on the punishments to impose in the light of the offences committed.

23. In pursuit of their aim to subject the population to their rules and religious and political requirements, the armed groups attacked the men and women of Timbuktu for religious reasons and the women on gender grounds.

24. Timbuktu was the site of many mausoleums and mosques. These buildings were intimately bound up with the daily life of the civilian population of Timbuktu and were religious sites and symbols of the city. Timbuktu residents would go to them regularly to practise their religion, including to perform collective rituals.

25. The armed groups were determined to eradicate all these religious practices, which they regarded as contrary to their religious and political requirements. They

began by prohibiting religious practices at the site of the mausoleums. Their members then damaged some mausoleums in April or May 2012. Eventually, between 30 June and 11 July 2012, they attacked and demolished 10 mausoleums in Timbuktu,³ at Iyad Ag Ghaly's behest. In October and December 2012, further attacks resulted in the destruction of five mausoleums.⁴ Three other mausoleums,⁵ eight kilometres to the south of Timbuktu, suffered the same fate. In addition, the armed groups prohibited the people of Timbuktu from celebrating religious festivals, wearing amulets, owning statuettes that reflected local beliefs and congregating in the mosques outside of prayer time. Local imams' sermons were also monitored.

26. In line with their religious and political requirements, the armed groups also applied rules and prohibitions that targeted women exclusively, including their freedom of movement and their dress. For one thing, women could not leave their homes or go out in the company of men other than their husbands or brothers. Nor could they move around alone at night. Moreover, they had to adhere to strict dress codes imposed by the armed groups.

27. Throughout the time the armed groups Ansar Dine and AQIM ruled the city, women were monitored at all times. The armed groups monitored them in the street and in their homes. If their behaviour or dress was considered contrary to the rules or prohibitions laid down by the armed groups, women were punished. They were whipped or beaten in public, which could cause all manner of injury. Some were also held in a 2 m² space at the *Banque Malienne de Solidarité* [Malian Solidarity Bank], sometimes for 72 hours. Several women would often be held there at a time, without toilet facilities, food or water. They all had to relieve themselves on the ground. In one case, a woman [REDACTED]. In addition, some women were maltreated or raped by

³ *Viz.*, Sidi Mahmoud Ben Omar Mohamed Aquit, Sheikh Mohamed Mahmoud Al Arawani, Sheikh Sidi El Mokhtar Ben Sidi Mouhammad Al Kounti, Alpha Moya, Sheikh Mouhamad El Micky, Sheikh Abdoul Kassim Attouaty, Sheikh Sidi Ahmed Ben Amar Arragadi, the door of the Sidi Yahia Mosque which is regarded as sacred, the Bahaber Babadié and Ahamed Fulane Mausoleums adjoining the western wall of the Djingareyber Mosque.

⁴ *Viz.*, Sheikh Mouhamed Tamba-Tamba, Sidi Mouhammad Boukkou, Taleb Abdallah (and of his disciple, Sareikeyna, i.e. Mausoleum of the Twins al Hassan and al Houseyni), Mahamane Askia and Sidi Al Bekkai.

⁵ *Viz.*, Sheikh Nouh, Sheikh Ousmane Alkabar and Sheikh Mohamed Alfullani Al Masini.

the members of armed groups who were detaining them and while they were under the continuous control of the groups. One woman was raped in detention [REDACTED], whereas others sustained injuries with lasting effects, particularly when they physically resisted rape. One woman was also drugged before being raped.

28. The women of Timbuktu were often forcibly married to members of the armed groups. These forced marriages were encouraged by the senior leadership of Ansar Dine and AQIM, Iyad Ag Ghaly included. They introduced the rule that when a man joined the combatants, he would “obtain” a wife. The marriages often were ephemeral and intended to legitimize the non-consensual sexual relations engaged in by members of the armed groups, as well as to embed members of the armed groups in the population.

29. The forcibly married women were subsequently beaten and raped by their “husbands” and often by other men too, as the “husbands” could lend their “wives” to other men. One woman, for example, was forcibly married and later beaten and raped by four members of Ansar Dine and AQIM. She [REDACTED] because of the violence to which the rapists subjected her.

30. All these punishments imposed stemmed from the order instituted by the groups Ansar Dine and AQIM and were carried out to punish and intimidate women.

31. Other than engaging in persecution for the above-mentioned religious and gender reasons, Ansar Dine and AQIM ill-treated the men and women of Timbuktu for various reasons, all justified by the imposition of the new, established order.

32. For example, one man’s arm was amputated as a result of a judgment sentencing him for theft: after the sentence was handed down, the amputation was carried out with a kind of machete and took place in public, the person having been drugged beforehand. Another man [REDACTED] and beaten by members of Ansar Dine/AQIM, [REDACTED] – treatment which caused [REDACTED] several times. Another person, arrested [REDACTED], was [REDACTED] and struck [REDACTED]. The [REDACTED]. He was brought to the police station, then [REDACTED], [REDACTED] and threatened [REDACTED].

33. Many were flogged as punishment for transgression of the new rules which Ansar Dine/AQIM had established. Punishment was administered after the judgments of the Islamic Court were handed down. Flogging was carried out in public, sometimes in the presence of the victims' relatives who were forced to watch. [REDACTED]. Moreover, others were struck and wounded [*coups et blessures*] by Ansar Dine/AQIM members and transferred to the hospital in Timbuktu because of their wounds.

34. In some instances, public floggings were filmed, causing considerable physical and mental suffering to the victims on account of the humiliation and stigmatization associated with the fact that sentencing and punishment were carried out in public. For instance, one victim stated that death would have been preferable to being subjected to such public humiliation.

35. All that suffering was inflicted on account of the regime Ansar Dine and AQIM promulgated while Timbuktu was under their control. Having regard to the facts stated above, the Single Judge is satisfied that there are reasonable grounds to believe that Iyad Ag Ghaly and other persons put in place a system for ruling the city of Timbuktu. The resignation of the Malian national authorities was announced just days after the city was captured; the new system, with its prohibitions, was promptly explained to the population of Timbuktu; institutions such as the Islamic Police, the morality police, the Islamic Court and an office responsible for the media were created for the introduction and oversight of the system. All of that had one goal: to impose on the territory of Timbuktu and its population a system aligned with their religious and political requirements, by force if need be.

36. As said above, the leaders of Ansar Dine and AQIM relied on structured, organized and hierarchical bodies and thus secured the execution of all their orders.

37. Through the active role he performed in running the city, Iyad Ag Ghaly, the undisputed leader of Ansar Dine, had awareness of his authority in the ruling of Timbuktu. He introduced himself to the civilian population as the new "[TRANSLATION] boss" of the city. Throughout the time of that rule, Iyad Ag Ghaly had the power to control the imposition of the new order in Timbuktu through

organizations which he had established and to issue instructions to the members of armed groups present in the city. His instructions were followed by Ansar Dine members and AQIM members alike. Even when he was away from the city, he was regularly informed about all occurrences there.

38. Iyad Ag Ghaly's preeminent role is also reflected in his acts and his part in the implementation of the new system imposed on the population of Timbuktu: he announced to the population the end to the Malian institutions' powers, including those of the city's mayor, and introduced himself as the leader of the new order; he held the initial meetings with the local population and made announcements, broadcast over the radio, to explain the new rules and new prohibitions and to call on the population to cooperate; his role was pivotal to setting up the new institutions in Timbuktu; he gave the order for the mausoleums in Timbuktu to be destroyed; he also approved judgments of the Islamic Court, including the amputation of an arm in Timbuktu.

39. Considering Iyad Ag Ghaly's acts, his role in setting up the new system, his position at the apex of Ansar Dine, the fact that he was regularly informed about any developments while he was away from the city and the fact that he was in a position to approve decisions of the Islamic Court, the Single Judge is satisfied that there are reasonable grounds to believe that Iyad Ag Ghaly was aware of the crimes committed during the rule of the city or knew that they would be committed in the ordinary course of the execution of the common plan.

40. Accordingly, having regard to the facts set out in the Application, the Single Judge is satisfied that the evidence presented by the Prosecutor establishes reasonable grounds to believe that Iyad Ag Ghaly is criminally responsible

(i) for committing, jointly with other persons, war crimes in Timbuktu between April 2012 and January 2013, ordering or inducing their commission, or aiding, abetting or otherwise assisting, or in any other way contributing to it, *viz.*

- a. rape, sexual slavery and any other form of sexual violence;
- b. violence to person and outrages upon personal dignity;

c. the attack intentionally directed against buildings dedicated to religion, and historic monuments;

within the meaning of articles 8(2)(c)(i) and (ii), 8(2)(e)(iv), 8(2)(e)(vi), 25(3)(a), 25(3)(b), 25(3)(c) and 25(3)(d) of the Statute; and/or,

(ii) as a military commander, for the commission between April 2012 and January 2013 of the aforementioned war crimes by subordinates under his effective authority and control, within the meaning of articles 8(2)(c)(i) and (ii), 8(2)(e)(iv), 8(2)(e)(vi) and 28(a) of the Statute.

41. Furthermore, having regard to the facts set out in the Application, the Single Judge is also satisfied that the evidence presented by the Prosecutor establishes reasonable grounds to believe that Iyad Ag Ghaly is criminally responsible

(i) for committing, jointly with other persons, crimes against humanity in Timbuktu between April 2012 and January 2013, ordering or inducing their commission, or aiding, abetting or otherwise assisting, or in any other way contributing to it, *viz.*

a. imprisonment or other severe deprivation of physical liberty;

b. rape, sexual slavery and any other form of sexual violence;

c. torture;

d. other inhumane acts intentionally causing great suffering, or serious injury to body or to mental or physical health;

e. persecution of the population of Timbuktu on religious grounds (in connection with the crime of attack intentionally directed against buildings dedicated to religion, and historic monuments);

f. the persecution of the women and young girls of Timbuktu on gender grounds (in connection with the crimes of imprisonment or other severe deprivation of physical liberty, rape, sexual slavery, any other form of sexual violence, violence to person, outrages upon personal dignity, torture and other inhumane acts);

within the meaning of articles 7(1)(e), 7(1)(f), 7(1)(g), 7(1)(h), 7(1)(k), 25(3)(a), 25(3)(b), 25(3)(c) and 25(3)(d) of the Statute; and/or,

(ii) as a military commander, for the commission between April 2012 and January 2013 of the aforementioned crimes by subordinates under his effective authority and control, within the meaning of articles 7(1)(e), 7(1)(f), 7(1)(g), 7(1)(h), 7(1)(k), and 28(a) of the Statute.

42. The Single Judge does not consider it necessary, at this stage of the proceedings, to rule on the precise form of individual responsibility that could be attributed to Iyad Ag Ghaly.

III. Jurisdiction and admissibility of the case

43. The Single Judge is satisfied that the case against Iyad Ag Ghaly falls within the jurisdiction of the Court. The facts referred to in the Application occurred on or about 24 January 2012 to January 2013 on the territory of Mali, a State party to the Rome Statute, which, on 18 July 2012, referred to the Court the situation taking place on its territory since January 2012 and in which a number of crimes within the jurisdiction of the Court appeared to have been committed.

44. Having regard to the judgment of the Appeals Chamber of 13 July 2006,⁶ the Single Judge does not consider that he need rule on the admissibility of the case at this stage of the proceedings, which are being held *ex parte*.

IV. Necessity of the arrest

45. Under article 58(1)(b) of the Statute, the Pre-Trial Chamber may issue a warrant of arrest only if satisfied that the arrest appears necessary: (i) to ensure the person's appearance at trial; or (ii) to ensure that the person does not obstruct or endanger the investigation or the court proceedings; or (iii) to prevent the person from continuing with the commission of that crime.

46. To this day, Iyad Ag Ghaly continues to head the group Ansar Dine, which is still active. Moreover, he would appear to be involved in reunifying the armed groups which are active in northern Mali and now form a new group by the name of "*groupe*

⁶ Appeals Chamber, Situation in the Democratic Republic of the Congo, "Judgment on the Prosecutor's appeal against the decision of Pre-Trial Chamber I entitled 'Decision on the Prosecutor's Application for Warrants of Arrest, Article 58'", 13 July 2006, ICC-01/04-169.

pour le soutien de l'Islam et des musulmans" [Group for the Support of Islam and Muslims].

47. The Single Judge is satisfied that the arrest of Iyad Ag Ghaly is necessary to ensure that he will appear before the Chamber and also will not obstruct or endanger the investigation or the court proceedings. If he is not arrested, Iyad Ag Ghaly could interfere with the collection of evidence or [REDACTED], either directly or through his network in the region, considering the influence he still has.

48. The Single Judge is satisfied that, given the opportunity, Iyad Ag Ghaly could continue with the commission of crimes, considering his position in the armed groups in northern Mali and his activities there at this precise point in time.

V. Other requests made by the Prosecutor

49. The information put before the Single Judge on the current security situation in Mali and the all-important protection of witnesses has convinced him of the need to issue this warrant of arrest as "secret, *ex parte*, only available to the Prosecutor and the Registrar" for ease of its execution and for [REDACTED] in the Application. That said, it is necessary to authorize the Registry to disclose the existence of this warrant and its contents to any competent authority, where strictly necessary for its execution and in coordination with the Office of the Prosecutor.

50. Accordingly, the Single Judge instructs the Registrar to produce a request for the arrest and surrender of Iyad Ag Ghaly which may be provided, for the purpose of its execution, to third parties, i.e. to the competent authorities of any State on the territory of which the suspect may be found and/or to any other relevant authority, and to transmit it, if need be, to the parties, in coordination with the Office of the Prosecutor.

FOR THESE REASONS, THE SINGLE JUDGE

ORDERS THE ARREST OF

Iyad Ag Ghaly,

as identified in this warrant of arrest, there being reasonable grounds to believe that he is criminally responsible for

- war crimes:
 - (a) murder of *hors de combat* soldiers committed in Aguelhoc on 24 January 2012 (articles 8(2)(c)(i) and 25(3)(a), 25(3)(d) and/or 28(a));
 - (b) rape, sexual slavery and any other form of sexual violence, committed in Timbuktu between April 2012 and January 2013 (articles 8(2)(e)(vi) and 25(3)(a), 25(3)(b), 25(3)(c), 25(3)(d) and/or 28(a));
 - (c) violence to person (mutilation, cruel treatment and torture) and outrages upon personal dignity (humiliating and degrading treatment), committed in Timbuktu between April 2012 and January 2013 (articles 8(2)(c)(i) and (ii) and 25(3)(a), 25(3)(b), 25(3)(c), 25(3)(d) and/or 28(a));
 - (d) attack intentionally directed against buildings dedicated to religion, and historic monuments, committed in Timbuktu between April 2012 and January 2013 (articles 8(2)(e)(iv) and 25(3)(a), 25(3)(b), 25(3)(c), 25(3)(d) and/or 28(a)); and
- crimes against humanity:
 - (a) imprisonment or other severe deprivation of physical liberty, committed in Timbuktu between April 2012 and January 2013 (articles 7(1)(e) and 25(3)(a), 25(3)(b), 25(3)(c), 25(3)(d) and/or 28(a));
 - (b) rape, sexual slavery and any other form of sexual violence, committed in Timbuktu between April 2012 and January 2013 (articles 7(1)(g) and 25(3)(a), 25(3)(b), 25(3)(c), 25(3)(d) and/or 28(a));
 - (c) torture committed in Timbuktu between April 2012 and January 2013 (articles 7(1)(f) and 25(3)(a), 25(3)(b), 25(3)(c), 25(3)(d) and/or 28(a));
 - (d) other inhumane acts intentionally causing great suffering, or serious injury to body or to mental or physical health, committed in Timbuktu between April 2012 and January 2013 (articles 7(1)(k) and 25(3)(a), 25(3)(b), 25(3)(c), 25(3)(d) and/or 28(a));
 - (e) persecution of the population of Timbuktu on religious grounds (in connection with the crime referred to at article 8(2)(e)(iv) of attack intentionally directed against buildings dedicated to religion, and historic

monuments) committed in Timbuktu between April 2012 and January 2013 (articles 7(1)(h) and 25(3)(a), 25(3)(b), 25(3)(c), 25(3)(d) and/or 28(a));

- (f) persecution of the women and young girls of Timbuktu on gender grounds (in connection with the crimes of imprisonment or other severe deprivation of physical liberty, rape, sexual slavery, any other form of sexual violence, violence to person, outrages upon personal dignity, torture and other inhumane acts) committed in Timbuktu between April 2012 and January 2013 (articles 7(1)(h) and 25(3)(a), 25(3)(b), 25(3)(c), 25(3)(d) and/or 28(a));

ORDERS

the Registrar, in consultation and in coordination with the Office of the Prosecutor, to produce a request for the arrest and surrender of Iyad Ag Ghaly and, if need be and for the purpose of its execution, to transmit it to the competent authorities of any State on the territory of which the suspect may be found and/or to any other relevant authority;

ORDERS

the Registrar to take all measures necessary for the arrest and surrender of Iyad Ag Ghaly to the Court, including, if necessary, by transmitting to the States concerned a request for provisional arrest pursuant to article 92 of the Statute and requests for transit pursuant to article 89(3) of the Statute;

AUTHORIZES

the Registrar, in consultation and in coordination with the Office of the Prosecutor, to disclose the existence of this warrant of arrest and its contents to any competent authority, where strictly necessary for its execution;

ORDERS

the Registrar, in consultation and in coordination with the Office of the Prosecutor, to produce a request for cooperation addressed to the competent authorities of any relevant State and/or any other relevant authority, asking them to take all the measures necessary to searching Iyad Ag Ghaly upon his arrest and to seizing any

items which might be in his possession and might serve the investigation, and to provide them to the Court as soon as possible;

ORDERS

the Prosecutor to produce a redacted version of the Application and the related material, and to file them as “confidential, *ex parte* Prosecutor and Defence” in the record of the case, as soon as Iyad Ag Ghaly is apprised of the existence of the warrant for his arrest, so that they are available to Iyad Ag Ghaly and his counsel, by the time he arrives at the Court.

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

[signed]

Judge Cuno Tarfusser
Single Judge

Dated this 18 July 2017

At The Hague, Netherlands