



Original: English

No. **ICC-01/12-01/18**
Date: **17 September 2020**

TRIAL CHAMBER X

Before: Judge Antoine Kesia-Mbe Mindua, Presiding Judge
Judge Tomoko Akane
Judge Kimberly Prost

SITUATION IN THE REPUBLIC OF MALI

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

Public

Decision on Defence Request for an adjournment of P-0065's testimony

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

The Office of the Prosecutor

Fatou Bensouda
James Stewart

Counsel for the Defence

Melinda Taylor
Nicoletta Montefusco

Legal Representatives of Victims

Seydou Doumbia
Mayombo Kassongo
Fidel Luvengika Nsita

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

The Office of Public Counsel for Victims

**The Office of Public Counsel for the
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

TRIAL CHAMBER X of the International Criminal Court, in the case of *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, having regard to Article 64(6)(f) of the Rome Statute, issues the following decision.

1. On 1 September 2020, in accordance with the Chamber's directions on the conduct of proceedings,¹ the Office of the Prosecutor (the 'Prosecution') provided its Forthcoming Witness List for October 2020, in which it relevantly scheduled the testimony of Witness P-0065 for 19 to 29 October 2020.²
2. On 15 September 2020, the Defence filed a request for a one week adjournment of P-0065's testimony to 26 October 2020, and a one-week 'recess' prior to his testimony (the 'Request').³ Notably, in support of the Request, the Defence indicates (i) that upon receipt of the Forthcoming Witness List, it immediately started to adapt its investigation and cross examination preparations in accordance with the Prosecution's schedule;⁴ (ii) but that it has, however, encountered difficulties in meaningful preparation for P-0065, due to, *inter alia*, the substance of his expected testimony, the quantity of material related to him, challenges in Defence investigations, and the order of his testimony.⁵ In an email annexed to the Request, the Prosecution indicated that the one week postponement would be possible from a material/logistical point of view.⁶
3. In light of the timing of the Request and considering that the Prosecution's position is already on the record by way of Annex A to the Request, the Chamber has exceptionally made its present determination without awaiting responses from the Prosecution and Legal Representatives for Victims.

¹ Supplemental decision on matters related to the conduct of proceedings, 19 August 2020, ICC-01/12-01/18-1004, para. 10.

² Email from the Prosecution to the Chamber, 1 September 2020, at 19:15 and attached Forthcoming Witness List.

³ Defence Request for an adjournment of P-0065's testimony and a one-week recess prior to his testimony, ICC-01/12-01/18-1046-Conf-Exp (confidential *ex parte*, available only to the Defence and Registry; with confidential Annex A; a confidential redacted version was filed simultaneously, ICC-01/12-01/18-1046-Conf-Red).

⁴ Request, ICC-01/12-01/18-1046-Conf-Red, para. 4.

⁵ Request, ICC-01/12-01/18-1046-Conf-Exp, paras 5, 7-26.

⁶ Request, ICC-01/12-01/18-1046-Conf-Red para. 6 and the email at Annex A.

4. The Chamber notes that P-0065 is expected to testify on many key aspects of the case. He is presently scheduled to testify between 19 and 29 October with an examination-in-chief of 15 hours. Apart from P-0150, P-0065's is presently the longest expected testimony in the Prosecution case. A large quantity of material is also expected to be presented through this witness.
5. The Chamber recalls that in its decision of 8 July 2020, it stated that the Defence may revert to the Chamber to request an adjournment, if necessary, to accommodate on-site investigations.⁷ In this respect, the Chamber has taken note of the information in the Request regarding the progress and current status of Defence investigations.⁸
6. In the circumstances, and particularly having regard to the information set out in the Request, the Chamber considers that this discrete requested adjournment is reasonable to give the Defence the opportunity to adequately prepare its cross-examination and is within the scope of the type of adjournment foreseen in the Chamber's aforementioned 8 July 2020 decision. The Request is therefore granted. Noting, however, that the preceding witness may finish earlier or later than anticipated, rather than setting a specific date, the Chamber determines that P-0065's testimony shall start one week from the conclusion of the preceding witness' testimony.
7. The Chamber notes that granting the Request necessitates a consequential adjustment of the dates of the testimony of Witness P-0598, who follows P-0065.

⁷ Decision on Defence Adjournment Request, ICC-01/12-01/18-940-Conf, para. 30.

⁸ Request, ICC-01/12-01/18-1046-Conf-Exp, paras 17-21.

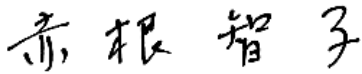
FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

GRANTS the Request and adjourns P-0065's testimony to one week from the conclusion of the preceding witness' testimony.

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



Judge Antoine Kesia-Mbe Mindua
Presiding Judge



Judge Tomoko Akane



Judge Kimberly Prost

Dated 17 September 2020

At The Hague, The Netherlands