

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No. ICC-01/12-01/18

Date: 23 June 2022

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***

Confidential redacted version of

**Decision on request for lifting of the active monitoring of telephone calls with
two individuals on Mr Al Hassan's list of non-privileged contacts**

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

The Office of the Prosecutor

Karim A. A. Khan
Nazhat Shameem Khan
Mame Mandiaye Niang

Counsel for the Defence

Melinda Taylor

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

Nigel Verrill

Detention Section

Harry Tjonk

**Victims Participation and Reparations
Section**

Other

TRIAL CHAMBER X (the ‘Chamber’) of the International Criminal Court (the ‘Court’), in the case of *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, issues the following decision.

1. On 31 January 2022, the Chamber decided to amend the restrictions applicable to Mr Al Hassan’s contacts in detention, notably ceasing the active monitoring of non-privileged telephone calls (the ‘31 January 2022 Decision’).¹
2. On 22 June 2022, the Defence filed a request for the Chamber to lift the active monitoring of telephone calls between Mr Al Hassan and [REDACTED], as well as with [REDACTED], two individuals sought to be added to the list of non-privileged contacts in March 2022 (the ‘Request’).²
3. In the 31 January 2022 Decision, the Chamber found it no longer necessary or proportionate to maintain the active monitoring of Mr Al Hassan’s non-privileged telephone calls and visits in relation to those individuals on the approved list of non-privileged contacts.³ The Chamber notably observed that moving from active to passive monitoring would allow increased and flexible communication between Mr Al Hassan and family members on his current list of contacts, which the Chamber considered to be appropriate in light of the stage of the proceedings and the lesser objective risks identified in relation to the individuals on the list.⁴
4. In relation to individuals who may be added to the list after the issuance of the 31 January 2022 Decision, the Chamber determined that the VWU should continue to verify the identity and contact details of any such individuals, and seize the Chamber if necessary.⁵ The 31 January 2022 Decision accordingly retained the possibility for the Chamber to order the active monitoring of individuals added to the list of non-privileged contacts on a case-by-case basis, where the Chamber considers it necessary following the VWU’s assessment.

¹ Decision reviewing the measures restricting Mr Al Hassan’s contacts in detention, ICC-01/12-01/18-2100-Conf.

² Request for lifting of the monitoring of Mr Al Hassan’s telephone calls, ICC-01/12-01/18-2267-Conf-Exp.

³ 31 January 2022 Decision, ICC-01/12-01/18-2100-Conf, para. 21.

⁴ 31 January 2022 Decision, ICC-01/12-01/18-2100-Conf, para. 22.

⁵ 31 January 2022 Decision, ICC-01/12-01/18-2100-Conf, para. 23.

5. With respect to the Request, the Chamber notes that it has received no information indicating that the absence of active monitoring in relation to the two individuals would give rise to an objectively justifiable risk. The Chamber has also taken note of the Defence's submissions that the two individuals were added to the list of non-privileged contacts in order to [REDACTED].⁶ Accordingly, and having had due regard the accused's right to privacy and family life, the Chamber confirms that telephone calls between Mr Al Hassan and the two individuals mentioned above need not be actively monitored and that the measures mentioned at paragraphs 21, 22 and 26 of the 31 January 2022 Decision suffice with respect to these individuals.⁷ In accordance with paragraph 23 of the 31 January 2022 Decision, the VWU may seize the Chamber should it become aware of circumstances warranting the active monitoring of telephone calls with the two individuals.⁸

⁶ Request, ICC-01/12-01/18-2267-Conf-Exp, para. 9.

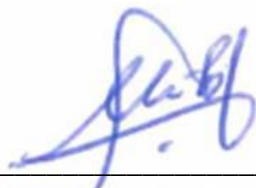
⁷ 31 January 2022 Decision, ICC-01/12-01/18-2100-Conf, paras 21-22, 26.

⁸ 31 January 2022 Decision, ICC-01/12-01/18-2100-Conf, para. 23.

FOR THESE REASONS, THE CHAMBER HEREBY

GRANTS the Request in accordance with paragraphs 4 and 5 of the present decision.

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 Thursday, 23 June 2022

At The Hague, The Netherlands