



Original: English

No. ICC-01/12-01/18

Date: 29 August 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***

Public

Sixth decision on matters related to the conduct of proceedings: end of Defence case, potential rebuttal/rejoinder evidence, and closure of evidence

Decision 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

**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 Articles 64, 67, 68 and 69 of the Rome Statute (the ‘Statute’), Rules 101, 140 and 141 of the Rules of Procedure and Evidence (the ‘Rules’), and Regulations 34, 36, 38(1), 43 of the Regulations of the Court, issues the following decision.

1. The Chamber notes that at this stage, the Defence has completed the testimony of about half of its *viva voce* witnesses and, barring exceptional circumstances, may be expected to complete its presentation of evidence during the course of November 2022. The Chamber therefore finds it appropriate to issue further directions on the conduct of proceedings and set deadlines as regards the end of the Defence case, potential evidence in rebuttal/rejoinder, as well as the closure of evidence and closing statements. These directions are given in advance in order to facilitate the effective preparation of all parties and participants.

A. Defence case

2. Having had regard to the amended tentative schedule filed by the Defence,¹ the Chamber currently expects that the Defence’s presentation of in-court evidence will conclude during the course of November 2022.
3. The Chamber recalls that hearings are currently scheduled until Friday 21 October 2022.² In addition, the Chamber hereby informs the parties that it will sit as follows for the remainder of the Defence case:
 - i. 25, 26 and 31³ October 2022 (no hearings on 24, 27-28 October);
 - ii. 1-4, 7-9 and 11 November 2022 (no hearing on 10 November); and, as necessary,
 - iii. From 14 until 18 November 2022.

¹ Revised Defence filing of tentative witness schedule, 5 August 2022, ICC-01/12-01/18-2293-Conf-Exp with one confidential *ex parte* annex.

² Email decision of 5 July 2022 at 19:24.

³ The Chamber will only sit one session in the afternoon (14:00-16:00) on 31 October 2022.

4. The Chamber notes that, for a number of Defence witnesses whose evidence is expected to be introduced pursuant to Rule 68(2) of the Rules, no application for introduction has been filed. As previously indicated,⁴ the Chamber now sets a final deadline for the filing of these applications. The Chamber instructs the Defence to file as many of these applications as possible by **26 September 2022** and sets **24 October 2022** as the final deadline for the filing of any remaining such applications.
5. Further, the Defence is directed to file any request for the submission of evidence other than through its remaining witnesses⁵ by **24 October 2022**. If necessary, and within one week after the completion of the testimony of the last Defence witness, this request may be complemented in light of the evidence presented/(not) submitted after 24 October 2022.
6. After the completion of the testimony of the last Defence witness and after having adjudicated on the above requests, the Chamber will order the Defence to notify the conclusion of its evidence presentation by way of a formal notice to be filed in the case record (the 'Defence Notice').

B. Presentation of (any) evidence in rebuttal/rejoinder⁶

7. To facilitate the fair and expeditious planning of the closure of the evidence submission phase of this trial, the Prosecution is instructed to submit a preliminary request on potential rebuttal evidence, if any, by **12 October 2022**. Any such preliminary request may be complemented within **one week** after the receipt of the Defence Notice, if necessary. Any preliminary and/or complementary request should be motivated, include a copy of the evidence sought to be submitted or, for testimonial evidence, specify the name and identifying details of proposed witnesses, include a summary of their expected evidence, as well as the length and intended mode of testimony.

⁴ Fifth decision on matters related to the conduct of proceedings: presentation of evidence by the LRVs and Defence, 22 September 2021, ICC-01/12-01/18-1756, para. 14.

⁵ See Directions on the conduct of proceedings, 6 May 2020, ICC-01/12-01/18-789-AnxA (the 'Directions on the conduct of proceedings'), paras 77-78.

⁶ Directions on the conduct of proceedings, 6 May 2020, ICC-01/12-01/18-789-AnxA, para. 18 (iv) and (v).

8. The Chamber notes that, should leave be granted, the presentation of any rebuttal evidence would be expected to take place in **December 2022**.

C. Closure of evidence, final briefs and closing statements

9. Pursuant to Rule 141 of the Rules, and considering the above directions, it is expected that the Chamber will declare the submission of evidence closed **immediately before or after the winter judicial recess**.
10. To facilitate the parties and participants' preparation, and while bearing in mind the provisions of Articles 64(6)(d) and 69(3) of the Statute, the Chamber now instructs the parties and participants on the modalities of the presentation of final briefs and closing statements. The Chamber specifies that it did not deem it necessary to receive submissions on the timeline or modalities set out in the present decision, including those discussed below with respect to the closure of evidence and closing statements.
11. Having considered the nature and scope of the parties' respective cases and responsibilities, the following schedule is adopted:
 - i. The Prosecution's and Legal Representatives of Victims' closing briefs are due **4 weeks** after the official closure of evidence submission;
 - ii. The Defence's final brief is due **4 weeks** after notification of the Prosecution's and LRVs' final briefs;
 - iii. Responses to the above briefs are due **2 weeks** after notification of the Defence's final brief;
 - iv. Hearings for the parties and participants' closing statements will be scheduled in due course, but shall take place approximately within **2 weeks** of notification of the abovementioned responses to the briefs. The Chamber will inform the parties and participants of the modalities of the closing statements. The Chamber does not exclude that a list of questions will also be sent to the parties and participants before the closing statements, in light of the content of the final briefs and responses.

12. In addition, the Chamber instructs the parties and the participants to implement the following:
- i. The final briefs of the Prosecution and the Defence shall be drafted in English. They shall not exceed 200 pages. Their respective response shall not exceed 50 pages.
 - ii. The brief of the participants may be drafted in French and shall not exceed 120 pages. Any response shall not exceed 25 pages.
 - iii. In any case, annexes to these documents should not contain any argument on substance or evidentiary excerpts or summaries of the same and should be strictly limited to accessory non-substantial information.
 - iv. The Chamber stresses that the parties and the participants should comply with the format requirements for documents as set out in Regulation 36 of the Regulations.
 - v. The parties should rely, for the drafting of their respective closing briefs, and to the extent possible, on the most recent available versions of the English transcripts. References to the transcripts in the footnotes should comply with the following format: P-XXX: T-XXX, p. XX, lines XX-XX (Conf [if applicable]). In case of apparent discrepancies between the English and French transcripts, the relevant reference to both transcripts shall be provided. For example, P-XXX: T-XXX[ENG], p. XX, lines XX-XX (Conf [if applicable]) and T-XXX[FR], p. XX, lines XX-XX.
 - vi. Should subsequent transcript corrections be notified after the filing of the closing briefs and result in substantive changes that need to be brought to the Chamber's attention, the parties and participants will be able to notify the Chamber accordingly.

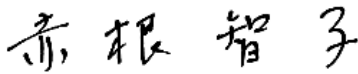
FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

ADOPTS the aforementioned directions concerning the conduct of proceedings.

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 this Monday, 29 August 2022

At The Hague, The Netherlands