

Pursuant to TCX Decision ICC-01/12-01/18-2560-Conf-Exp, dated 30 August 2023, this document has been reclassified as "Public"

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No. ICC-01/12-01/18

Date: 6 April 2023

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

Order on in-court protective measures granted to Prosecution witnesses

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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(2) and 68 of the Rome Statute (the ‘Statute’) and Rule 87 of the Rules of Procedure and Evidence (the ‘Rules’), issues the following ‘Order on in-court protective measures granted to Prosecution witnesses’.

1. Pursuant to Article 68 of the Statute and Rule 87 of the Rules, the Chamber has granted several witnesses called by the Office of the Prosecutor (the ‘Prosecution’) in-court protective measures, including those who are allegedly victims of charged incidents, in the form of the use of pseudonym, face distortion and/or voice distortion.
2. Article 64 (7) of the Statute makes it clear that the need to protect confidential information should be balanced against the principle of the publicity of the trial. As previously indicated,¹ the Chamber is mindful of the need to ensure publicity of the proceedings and intends to issue a public version of its Judgment pursuant to Article 74 of the Statute (the ‘Judgment’), containing only strictly necessary redactions.
3. In this context, the Chamber instructs the VWU to provide observations to further assist the Chamber to identify details that need not be redacted in the Judgment regarding the background, general situation and victimisation of a series of witnesses, in light of their post-testimony situation. The Chamber seeks observations, *inter alia*, about any possible change in circumstances surrounding the witnesses since the initial provision of protective measures. In this regard, the Chamber also observes that, for several of the Prosecution witnesses, publicly available or widely reported information about certain incidents, coupled with the witnesses’ public testimony about their alleged victimisation or role may have made any protective measures redundant.
4. In light of the above, the Chamber instructs the VWU to make observations on the present situation of the following witnesses, including on any warranted re-assessment of the parameters of the protective measures. These witnesses are:

¹ Email from the Chamber dated 23 March 2023 at 14:56.

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P-0565, P-0557, P-0554, P-0984, P-0636, P-0602, P-0520, P-0547, P-0642, P-0610, P-0622, P-0538, and P-0626. The outcome of this exercise, which should be done in consultation with the Prosecution, including recommendations on subsequent measures if any, should be provided to the Chamber by **Thursday, 15 June 2023**.

5. The VWU's report should be simultaneously provided to the parties and participants, with redactions applied as necessary. Any observations concerning this report should be submitted by the parties and participants within six days of its notification.

**FOR THE FOREGOING REASONS, THE CHAMBER HEREBY
INSTRUCTS** the VWU to proceed in accordance with the present order.

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 Thursday, 6 April 2023

At The Hague, The Netherlands