

Pursuant to Trial Chamber X's instruction dated 16 November 2023, this document is reclassified as Public.

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No. ICC-01/12-01/18

Date: 10 July 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

Second order on in-court protective measures granted to Prosecution witnesses

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

Oswaldo Zavala Giler

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 ‘Second order on in-court protective measures granted to Prosecution witnesses’.

1. On 6 April 2023, the Chamber instructed the VWU to provide observations on the present situation of 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, *inter alia*, concerning any possible change in circumstances surrounding the witnesses since the initial provision of protective measures (the ‘First Order’).¹
2. On 15 June 2023, the VWU submitted its report, detailing the circumstances, and any material changes, surrounding each of the aforementioned witnesses.²
3. Article 64 (7) of the Statute mandates the Court to balance the need to protect confidential information against the principle of the publicity of the trial. As previously indicated,³ 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, containing only strictly necessary redactions. In this regard, the Chamber also recalls its recent determination that, while the general security situation in Mali continues to remain grave, given that the evidentiary stage of the trial proceedings have concluded, any potential risks to witnesses have significantly diminished.⁴
4. In order to assist the Chamber’s assessment of the continuing necessity of in-court protective measures, 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 Order on in-court protective measures granted to Prosecution witnesses, ICC-01/12-01/18-2484-Conf, para. 4.

² Registry’s Report pursuant to the “Order on in-court protective measures granted to Prosecution witnesses” (ICC-01/12-01/18-2484-Conf), ICC-01/12-01/18-2533-Conf-Exp (confidential ex parte, only available to the Prosecution and the Registry; a confidential redacted version was filed on the same date).

³ First Order, ICC-01/12-01/18-2484-Conf, para. 2.

⁴ Decision reviewing the measures restricting Mr Al Hassan’s contacts whilst in detention following the closure of the submission of evidence, ICC-01/12-01/18-2498-Red, para 25.

P-0150, P-0065, P-0654, P-0638, P-0004, P-0582, P-1086 and P-0081. 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 **Monday, 7 August 2023** for P-0150 and **Tuesday, 5 September 2023** at the latest for the other witnesses.

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 file an additional report concerning P-0150, P-0065, P-0654, P-0638, P-0004, P-0582, P-1086 and P-0081 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 this Monday, 10 July 2023

At The Hague, The Netherlands