

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No. ICC-01/12-01/18

Date: 28 June 2024

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 the sentencing procedure

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

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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****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 76-78 of the Rome Statute (the ‘Statute’), Rules 143-145 of the Rules of Procedure and Evidence (the ‘Rules’), and Regulation 37(1) of the Regulations of the Court (the ‘Regulations’), issues the following ‘Decision on the sentencing procedure’.

1. On 26 June 2024, the Chamber delivered its judgment pursuant to Article 74 of the Statute in which, by Majority, Judge Mindua dissenting, it notably convicted Mr Al Hassan of a number of crimes against humanity and war crimes.¹
2. Pursuant to Article 76(1) of the Statute, the Chamber shall at this point proceed to consider the appropriate sentence to be imposed on Mr Al Hassan. In doing so, and in accordance with this provision, the Chamber shall take into account the evidence presented and submissions made during the trial that are relevant to the sentence. In addition, the Chamber finds it appropriate for parties and participants to make further submissions and to have an opportunity to submit any additional evidence relevant to the sentence. Accordingly, and having considered the period of time already available for the parties and participants’ preparation, particularly since the issuance of a first scheduling order in December 2023,² the Chamber sets the below timetable.
3. First, the Office of the Prosecutor (the ‘Prosecution’), the Defence and the Legal Representatives of Victims shall file at the latest by **Monday 8 July 2024** any request to present additional evidence. These filings shall include:
 - a) For any proposed *viva voce* witness: i) his or her identity; ii) the topics on which he or she is expected to testify and their anticipated relevance to the sentence; iii) estimated length of examination; iv) a copy of any prior recorded testimony sought to be introduced under Rule 68(3) of the Rules with the corresponding request; v) a motivated request should any protective measure

¹ Trial Judgment, ICC-01/12-01/18-2594-Conf and its public redacted version, ICC-01/12-01/18-2594-Red.

² See Order scheduling the delivery of the Trial Judgment, 6 December 2023, ICC-01/12-01/18-2476.

be warranted; and vi) an indication of the witness's availability to appear on the dates anticipated³ and prospective use of video-link;⁴

- b) For other (written) testimonial evidence: (i) a copy of the prior recorded testimony sought to be introduced under Rule 68(2) of the Rules with the corresponding request; (ii) an indication of the need, if any, for the identity of the proposed witness(es) to remain confidential; and (iii) proposed arrangement for the obtention of accompanying declaration(s) under Article 68(2)(b)(ii) of the Statute.
 - c) For non-testimonial evidence: i) a copy of, or hyperlink to, the documentary material submitted; and (ii) any submission on the material's relevance and probative value.
4. These requests to submit evidence shall also indicate how the proposed evidence relates to the factors to be considered in the determination of the sentence under Article 78 of the Statute and Rule 145 of the Rules. Given the abundance of evidence of potential relevance to the sentence already on the record, as well as the Chamber's relevant findings in its judgment under Article 74 of the Statute, the Chamber expects that any additional evidence, especially *viva voce* witnesses, will be very limited. The Chamber accordingly emphasises that it may intervene in the selection and presentation of evidence in order to ensure the fair and expeditious conduct of the sentencing proceedings.
 5. Response to the above requests, including raising any issue related to the relevance or admissibility of the evidence submitted, shall be filed by **Wednesday 10 July 2024**.
 6. Second, and at the latest by **Wednesday 17 July 2024**, parties and participants may file written submissions relevant to the sentence. These submissions shall include any argument they wish to raise on the factors to be considered by the

³ See below, para. 8.

⁴ Directions on the conduct of proceedings, ICC-01/12-01/18-789-AnxA, para. 54.

Chamber pursuant to Article 78 of the Statute and Rule 145 of the Rules, including on any mitigating or aggravating circumstances.

7. Responses to these written submissions, as well as any reply to be authorised by the Chamber, will be made orally in the context of the below hearing to be scheduled pursuant to Article 76(2) of the Statute.
8. The Chamber informs that, pursuant to Article 76(2) of the Statute, to hear any additional evidence and receive final submissions relevant to the sentence, a hearing will be held between **24 and 26 July 2024**. Further details as to the precise date and time of the sessions will be provided in due course. The Chamber already informs that no subsequent written submissions will be allowed thereafter.
9. The Chamber will subsequently retire to deliberate and a hearing will be scheduled on **28 August 2024**, in order to deliver in open court the Chamber's decision pursuant to Article 76 of the Statute.

FOR THE ABOVE REASONS, THE CHAMBER HEREBY

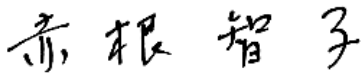
ADOPTS the abovementioned timetable and directions.

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 Friday, 28 June 2024

At The Hague, The Netherlands