



Original: English

No. ICC-01/12-01/18

Date: 29 April 2020

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

**Order to provide information on methods of work to minimise the impact of
COVID-19 and related measures on the conduct of proceedings**

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

The Office of the Prosecutor

Fatou Bensouda
James Stewart

Counsel for the Defence

Melinda Taylor
Marie-Hélène Proulx
Thomas Hannis

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

Paddy Craig

**Victims Participation and Reparations
Section**

Philipp Ambach

Other

TRIAL CHAMBER X (the ‘Chamber’) of the International Criminal Court, in the case of *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, having regard to Article 64 of the Rome Statute (the ‘Statute’), issues the present ‘Order to provide information on methods of work to minimise the impact of COVID-19 and related measures on the conduct of proceedings’.

1. On 6 January 2020, the Chamber set the date for the commencement of trial on 14 July 2020 and adopted a calendar leading up to this date.¹
2. On 28 February 2020, upon invitation of the Chamber, the Prosecution,² Defence,³ and LRVs⁴ filed observations on the conduct of proceedings.
3. Since the above submissions were made the COVID-19 pandemic and measures adopted in response have impacted on trial preparations and have led, in whole or in part, to discrete applications by the parties.⁵ The Chamber is fully aware of the logistical challenges which have arisen in terms of remote working arrangements for the Court and requires no further submissions on these issues.
4. The Chamber notes that travel between and within countries has been severely restricted in response to the COVID-19 pandemic, and various relevant countries, including the Host State and Mali, have imposed strict measures to contain the spread of the virus.⁶ As previously noted by the Chamber, these measures inevitably have an effect on the overall functioning of the Court.⁷

¹ Decision Setting the Commencement Date of the Trial, ICC-01/12-01/18-548.

² Prosecution observations on conduct of proceedings, ICC-01/12-01/18-615.

³ Defence observations on the conduct of proceedings, ICC-01/12-01/18-618-Conf with confidential Annexes A, B and C (a public redacted version was filed on 3 March 2020, ICC-01/12-01/18-618-Red).

⁴ Observations des victimes sur la conduite du procès et sur des questions connexes, ICC-01/12-01/18-619.

⁵ See for example, Prosecution provisional request for extension of judicial deadlines, 17 March 2020, ICC-01/12-01/18-665-Conf; Urgent Defence request for interim release, 24 March 2020, ICC-01/12-01/18-680-Red2; Rapport sur l’état de préparation de l’Accusation, 14 April 2020, ICC-01/12-01/18-739-Conf-Exp; Dépôt de la Liste des témoins de l’Accusation, des résumés desdits témoins et de la Liste provisoire des éléments de preuve à charge, 14 April 2020, ICC-01/12-01/18-740-Conf; Urgent Third Prosecution Request for variation of the time limit to file Trial Brief; 17 April 2020, ICC-01/12-01/18-760-Conf.

⁶ Decision on the Prosecution request for a further extension of the time limit to file the Trial Brief, 23 April 2020, ICC-01/12-01/18-770-Conf, para. 6; Decision on the Prosecution request for extension of

5. To facilitate consideration of the next steps the Chamber requests an update from the Registry on the current and, as far as possible, the projected situation in the Host State and in Mali in terms of the COVID-19 measures over the next six months.
6. In light of the imminent start of trial, the Chamber considers it appropriate to also gather information and observations from the Registry, the parties and participants on the current situation and possible steps and measures which can be taken in terms of working methods and organization of the proceedings in particular in light of travel restrictions. To this end, the Registry, and the parties and participants, are invited to discuss possible scenarios in order to put forward, to the extent possible, proposals to organise the proceedings in a manner that is most effective and minimises delays arising from the COVID-19 situation, whilst bearing in mind the rights of the accused and the safety of all of those involved in the Court proceedings.
7. Amongst these proposals the Chamber would appreciate submissions from the Registry, parties and participants, to the extent possible jointly, on:
 - a. the feasibility of field missions in the next four months and any alternative methods of gathering information and evidence in the absence of the same;
 - b. the feasibility of hearing *viva voce* testimonies via video-link from Mali or other areas where Prosecution witnesses are located as of late August 2020 and a possible order of witnesses from the Prosecution which takes into account this feasibility assessment;
 - c. concrete proposals for the holding of a status conference in June, with the presence of the accused, physically or through the use of video technology; and
 - d. any other issues/proposals for the upcoming trial proceedings.

deadlines relating to the disclosure of evidence and a postponement of the starting date for trial, 20 March 2020, ICC-01/12-01/18-677 (the '20 March 2020 Decision'), para. 6.

⁷ 20 March 2020 Decision, ICC-01/12-01/18-677, para. 6.

8. The Chamber further seeks submissions from the LRV's and VPRS as to what measures could be employed to facilitate applications for participation from victims in light of the situation.
9. The Chamber also invites the OTP and the Defence to increase their efforts on agreed facts as a means of reducing the length of any delay which might arise from the current circumstance.
10. Finally the Chamber notes that the submissions should be premised on the current deadlines for the trial proceedings and unless it is agreed by parties and participants no request for delay should be presented in the submissions.

FOR THESE REASONS, THE CHAMBER HEREBY

INSTRUCTS the parties and participants and the Registry to discuss and submit, to the extent possible, joint proposals on the organisation of the trial proceedings in light of the current COVID-19 measures no later than 20 days from the notification of this 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 Wednesday, 29 April 2020

At The Hague, The Netherlands