



Original: English

No. ICC-01/12-01/18

Date: 1 July 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

Decision on Associate Counsel's request for withdrawal

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

Pieter Vanaverbeke

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Michiel Pestman

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(2) of the Rome Statute (‘Statute’), Regulation 78(1) of the Regulations of the Court (the ‘Regulations’) and Article 16(3)(b) of the Code of Professional Conduct for counsel (the ‘Code of Conduct’), issues the following ‘Decision on Associate Counsel’s request for withdrawal’.

1. On 25 February 2022, the Chamber was notified of Mr Michiel Pestman’s appointment as Associate Counsel for Mr Al Hassan.¹
2. On 28 June 2022, Mr Michiel Pestman filed a request, seeking the Chamber’s authorisation under Regulation 78(1) of the Regulations to withdraw from the position of Associate Counsel with immediate effect (the ‘Request’).²
3. Mr Pestman submits that a conflict of interest has arisen, notably between Mr Al Hassan and a person who was represented by a colleague in his law firm Prakken d’Oliveira; that under the Dutch Code of Conduct a conflict of interest can also arise when clients are represented by different advocates within the same law firm; and that he did not obtain a waiver of the clients as required under Article 16(3)(b) of the Code of Conduct.³
4. The Chamber notes that the Request was made with the consent of Defence Lead Counsel as well as Mr Al Hassan.⁴
5. Further, the Chamber notes that it is the sixth associate counsel to withdraw from the case since March 2020.⁵

¹ Notification of the Appointment of Mr Michiel Pestman as Associate Counsel for Mr Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, 25 February 2022, ICC-01/12-01/18-2129.

² Request for Leave to Withdraw, 28 June 2022, ICC-01/12-01/18-2272.

³ Request, ICC-01/12-01/18-2272, para. 4.

⁴ Request, ICC-01/12-01/18-2272, para. 2.

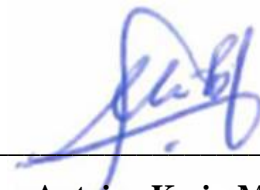
⁵ See Decision on Associate Counsel’s Request to Withdraw, 6 March 2020, ICC-01/12-01/18-637; Decision on Associate Counsel’s Request to Withdraw, 5 June 2020, ICC-01/12-01/18-860; Decision on Ms Marie-Hélène Proulx’s request for withdrawal, 2 July 2020, ICC-01/12-01-18-920; Decision on Associate Counsel’s request for withdrawal, 22 September 2020, ICC-01/12-01/18-1065-Conf (a public redacted version of the decision was filed on the same date, ICC-01/12-01/18-1065-Red); Decision on Associate Counsel’s request to withdraw, 11 February 2022, ICC-01/12-01/18-2112.

6. In light of the advanced stage of the proceedings, the fact that the Lead Counsel continues to represent the accused, as well as that the Defence has already identified a replacement,⁶ the Chambers considers that no undue prejudice would arise by granting the Request.
7. As acknowledged in the Request,⁷ the Chamber reminds Mr Michiel Pestman that he remains bound by his obligations under Articles 8, 15 and 17-18 of the Code of Professional Conduct for Counsel as well as any provisions of the Statute and the Rules of Procedure and Evidence relating to confidentiality.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY


GRANTS the Request.

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, 1 July 2022

At The Hague, The Netherlands

⁶ Notification and Request for *Ex Parte* Status Conference, 27 June 2022, ICC-01/12-01/18-2269-Conf-Exp (*ex parte* to the Registry and the Defence), para. 7.

⁷ Request, ICC-01/12-01/18-2272, para. 6.