



Original: English

**No. ICC-01/12-01/18
Date: 8 December 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 Defence request for leave to appeal the ‘Decision on Defence request
for reconsideration of Decision on requests related to the submission into
evidence of Mr Al Hassan’s statements’**

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****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 Article 82(1)(d) of the Rome Statute (the ‘Statute’), issues the following ‘Decision on Defence request for leave to appeal the “Decision on Defence request for reconsideration of Decision on requests related to the submission into evidence of Mr Al Hassan’s statements”’.

1. On 17 May 2021, the Chamber issued its ‘Decision on requests related to the submission into evidence of Mr Al Hassan’s statements’ (the ‘Impugned Decision’).¹
2. On 24 June 2021, the Chamber rejected the Defence’s request for leave to appeal the Impugned Decision (the ‘Leave to Appeal Decision’).²
3. On 3 November 2022, the Defence filed a request seeking reconsideration of the Impugned Decision (the ‘Reconsideration Request’).³
4. On 23 November 2022, the Chamber issued its decision rejecting the Reconsideration Request (the ‘Reconsideration Decision’).⁴
5. On 29 November 2022, the Defence filed a request seeking leave to appeal the Reconsideration Decision with respect to five issues (the ‘Request’).⁵
6. On 30 November 2022, the Office of the Prosecutor (the ‘Prosecution’) filed its response,⁶ submitting that none of the issues are appealable issues and that, in any event, the other cumulative requirements under the provision are not satisfied,

¹ ICC-01/12-01/18-1475-Conf.

² Decision on Defence requests for leave to appeal two decisions related to the submission into evidence of Mr Al Hassan’s statements, ICC-01/12-01/18-1542.

³ Defence request for reconsideration of ‘Decision on requests related to the submission into evidence of Mr Al Hassan’s statements’, ICC-01/12-01/18-1475-Conf, ICC-01/12-01/18-2403-Conf.

⁴ Decision on Defence request for reconsideration of Decision on requests related to the submission into evidence of Mr Al Hassan’s statements, ICC-01/12-01/18-2414.

⁵ Defence request for leave to appeal the “Decision on Defence request for reconsideration of Decision on requests related to the submission into evidence of Mr Al Hassan’s statements”, ICC-01/12-01/18-2428.

⁶ Prosecution response to the “Defence request for leave to appeal the ‘Decision on Defence request for reconsideration of Decision on requests related to the submission into evidence of Mr Al Hassan’s statements’”, ICC-01/12-01/18-2429.

notably since the issues raised in the Request are premature and can be raised in an appeal pursuant to Article 81 of the Statute.

7. The Chamber incorporates by reference the applicable legal framework for granting leave to appeal pursuant to Article 82(1)(d) of the Statute.⁷
8. In the Leave to Appeal Decision, the Chamber outlined its reasons for concluding that the Defence's submissions that the Chamber's admission of Mr Al Hassan's statements affects the outcome of the trial were speculative and premature and that immediate resolution by the Appeals Chamber would not materially advance the proceedings.⁸ The Chamber considers that this reasoning is also relevant, *mutatis mutandis*, to the five issues in the present Request and is unpersuaded that that an immediate resolution of these issues by the Appeals Chamber at this stage may materially advance the proceedings. Accordingly, it is unnecessary to address the other cumulative requirements under Article 82(1)(d) of the Statute.

**FOR THE FOREGOING REASONS, THE CHAMBER HEREBY
REJECTS** 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 Thursday, 8 December 2022

At The Hague, The Netherlands

⁷ Decision on Defence request for reconsideration and, in the alternative, leave to appeal the 'Decision on witness preparation and familiarisation', 9 April 2020, ICC-01/12-01/18-734.

⁸ Leave to Appeal Decision, ICC-01/12-01/18-1542, para. 26.