

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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No.: ICC-01/12-01/18

Date: 20 April 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**

**URGENT
CONFIDENTIAL**

**Registry's Observations Pursuant to the Order Concerning Review of Contact
Restrictions Imposed on Mr Al Hassan**

Source: Registry

Document 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 the Applicants**Unrepresented Victims****Unrepresented Applicants
(Participation/Reparation)****The Office of the Public Counsel for
Victims****The Office of the Public Counsel for the
Defence****States' Representatives****Amicus Curiae****REGISTRY**

Registrar

Mr Osvaldo Zavala Giler

Counsel Support Section**Victims and Witnesses Unit**

Mr Nigel Verrill

Detention Section

Mr Harry Tjonk

**Victims Participation and Reparations
Section Other**

I. Introduction

1. Following Trial Chamber X's ("Chamber") email of 30 March 2023 in the case of *The Prosecutor vs Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, instructing, *inter-alia*, the Registry to provide its observations on the contact restrictions imposed on Mr Al Hassan by Thursday 20 April 2023¹, the Registry hereby submits the following observations.

II. Procedural history

2. On 31 January 2022, the Chamber issued the "Decision reviewing the measures restricting Mr Al Hassan's contacts in detention" ("31 January 2022 Decision")² ordering the Registry, *inter alia*, to implement specific modifications *vis-à-vis* particular restrictions on Mr Al Hassan's contacts and to maintain the previously adopted modalities with regard to other contact restrictions.³
3. On 22 June 2022, the Defence filed a "Request for lifting of the monitoring of Mr Al Hassan's telephone calls" requesting that two new individuals be added to his contact list of authorised individuals.⁴
4. On 23 June 2022, the Chamber issued its "Decision on request for lifting of the active monitoring of telephone calls with two individuals on Mr Al Hassan's list of non-privileged contacts" granting the Defence's request and ordering that

¹ Email from Trial Chamber X to Registry, Office of the Prosecutor, Defence of Mr Al Hassan and Legal Representative of the Victims on 30 March 2023 at 9.16.

² Trial Chamber X, "Decision reviewing the measures restricting Mr Al Hassan's contacts in detention", ("31 January 2022 Decision"), 31 January 2022, ICC-01/12-01/18-2100-Conf.

³ Trial Chamber X, "31 January 2022 Decision", paras. 20-30.

⁴ Defence of Mr Al Hassan, "Request for lifting of the monitoring of Mr Al Hassan's telephone calls", 22 June 2022, ICC-01/12-01/18-2267-Conf-Exp.

the VWU “may seize the Chamber should it become aware of circumstances warranting the active monitoring of telephone calls with the two individuals”.⁵

III. Classification

5. In accordance with regulation 23 *bis*(2) of the Regulations of the Court (“RoC”), the present observations are classified as confidential as they refer to decisions of the same level of classification.

IV. Applicable law

6. For the purpose of the present observations, the Registry has considered, *inter alia*, regulations 90, 99(1)(i), 100 and 101 of the RoC, and regulations 173, 174, 175, 177, 179, 180, 183, 184 and 185 of the Regulations of the Registry (“RoR”).

V. Submissions

7. The Registry draws the Chamber’s attention to its observations regarding a) the implementation of the restrictions on contacts for Mr Al Hassan, and b) the *post-facto* analysis of the recordings of Mr Al Hassan’s non-privileged phone calls conducted by the VWU.

A) Implementation of restrictions on contact measures

8. The Registry considers the current orders and monitoring regime applicable to Mr Al Hassan as clear, and indicates that it has not experienced challenges regarding the implementation of the amended restrictions on contacts nor has any incidents to report.

⁵ Trial Chamber X, “Decision on request for lifting of the active monitoring of telephone calls with two individuals on Mr Al Hassan’s list of non-privileged contacts”, 23 June 2022, ICC-01/12-01/18-2268-Conf-Exp, para. 5.

B) Post-facto analysis of the recordings by VWU

9. Pursuant to the 31 January 2022 Decision, the VWU is ordered to carry out a post-facto analysis of the recordings of Mr Al Hassan's phone calls on a sporadic basis.⁶ In this regard, the Registry confirms that in conducting the post-facto analysis in compliance with the Registry's order, the VWU did not identify any element of concern related to victims and witnesses.



Marc Dubuisson, Director Division of Judicial Services
on behalf of Osvaldo Zavala Giler, Registrar

Dated this 20 April 2023

At The Hague, The Netherlands

⁶ Trial Chamber X, "31 January 2022 Decision", para. 29.