

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

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

Date: 4 April 2018

PRE-TRIAL CHAMBER I

Before: Judge Marc Perrin de Brichambaut, Single Judge

SITUATION IN THE REPUBLIC OF MALI

IN THE CASE OF

***THE PROSECUTOR v. AL HASSAN AG ABDOUL AZIZ AG MOHAMED AG
MAHMOUD***

Public

Prosecution's Request in relation to its Disclosure and Redaction Practice

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

Ms Fatou Bensouda

Mr James Stewart

Counsel for the Defence of

Mr Al Hassan Ag Abdoul Aziz

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Introduction

1. Considering the arrest and transfer of **Al Hassan Ag ABDOUL AZIZ** on 31 March 2018, the Prosecution wishes to start complying with its disclosure obligations in a timely manner, including with regard to the evidence supporting its application for the issuance of the warrant of arrest.¹
2. In so doing, and in order to ensure judicial economy, uniformity and efficiency in the disclosure and redaction practice, the Prosecution requests that Pre-Trial Chamber I (“the Chamber”) adopt in the instant case, *mutatis mutandis*, the same protocol for disclosure and redaction as adopted in the *Al Mahdi* Case.²

Submissions

3. Mindful of its disclosure obligations, and with the view to facilitating such exercise and to avoiding unnecessary difficulties and duplications, the Prosecution seeks the Chamber’s authorisation to implement in the instant case the protocol established in the *Al-Mahdi* Case.³
4. First, such Protocol regulates disclosure in accordance with the standard procedures adopted in pre-trial proceedings.⁴ It ensures that disclosure between the Parties take place through the Registry and that all material disclosed between the Parties shall be communicated to the Chamber following each batch of disclosure.⁵

¹ ICC-01/12-01/18-1-Red, 31 March 2018, « *Version publique expurgée de la ‘Requête urgente du Bureau du Procureur aux fins de délivrance d’un mandat d’arrêt et de demande d’arrestation provisoire à l’encontre de M. Al Hassan Ag ABDOUL AZIZ Ag Mohamed Ag Mahmoud’, 20 mars 2018, ICC-01/12-54-Secret-Exp* ».

² ICC-01/12-01/15-9, 30 September 2015, Decision on issues related to disclosure and exceptions thereto, (“Protocol” or “Protocol on Disclosure and Redaction”).

³ ICC-01/12-01/15-9.

⁴ ICC-01/12-01/15-9, para. 1.

⁵ ICC-01/12-01/15-9, paras. 1, 2.

5. Second, it also streamlines the disclosure preparation as it enables the Prosecution to apply redactions to certain standard categories of information without the need for a discrete authorisation of the Chamber,⁶ with the exception of a few categories specifically identified in the Protocol.⁷ This autonomous practice is effective in expediting disclosure between the Parties while ensuring judicial economy where Parties resort to the Chamber only when necessary. This is in line with the Chambers Practice Manual.⁸
6. Third, at the same time, the Protocol contains appropriate safeguards to the suspect's interests when disclosure is effected, including by informing him of the type of redactions applied⁹ and providing him with the possibility to challenge such redactions.¹⁰
7. Fourth, applying such Protocol in the instant case will ensure a uniform practice, given that a certain portion of the evidence disclosed in the *Al Mahdi* Case already contains redactions applied pursuant to the said Protocol and will have to be disclosed in the present case with the same redactions. Indeed, regulation 42 of the Regulations of the Court directs the Prosecutor to respect the protective measures as previously ordered by a Chamber when discharging disclosure obligations in subsequent proceedings. Applying a different redactions practice will cause a great degree of confusion and delay.

⁶ ICC-01/12-01/15-9, para. 4.

⁷ ICC-01/12-01/15-9, para. 7.

⁸ Chambers Practice Manual, May 2017, Exceptions to disclosure in the form of redaction of information, pp. 28-30.

⁹ ICC-01/12-01/15-9, paras. 4, 5.

¹⁰ ICC-01/12-01/15-9, para. 6.

Relief sought

8. For the foregoing reasons, the Prosecution requests that the Chamber adopt, *mutatis mutandis*, in the instant case, the protocol for disclosure and redaction adopted in the *Al-Mahdi* Case pursuant to decision ICC-01/12-01/15-9.



Fatou Bensouda, Prosecutor

Dated this 4th day of April 2018
At The Hague, The Netherlands