

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 17 September 2018

PRE-TRIAL CHAMBER I

Before: Judge Péter Kovács, Single Judge

SITUATION IN THE REPUBLIC OF MALI

IN THE CASE OF

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

Confidential ex parte

**Available only to the Prosecution, the Defence and the Victims and Witnesses
Unit**

**Response to the Prosecution's Request for authorisation to withhold the
identity of Witness MLI-OTP-P-0111 upon whose evidence the Prosecution will
not rely at the confirmation hearing**

**Source: Defence for Mr Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
Mahmoud**

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

Mr Yasser Hassan

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 Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

**Victims Participation and
Reparations Section**

Other

Introduction

1. On 6 September 2018, the Defence was notified of the confidential redacted version of the Prosecution's request to withhold the identity of Witness MLI-OTP-P-0111 upon whose evidence the Prosecution will not rely at the confirmation hearing.¹
2. The Defence hereby submits its response to the Prosecution's Request.

Classification

3. In accordance with regulation 23bis (2) of the Regulations of the Court, this response is classified as confidential *ex parte* available only to the Prosecution, the Defence and the Victims and Witnesses Unit, as the filing to which it relates is classified the same.

Submissions

4. In the Request, the Prosecution states that it will not rely on the evidence of Witness MLI-OTP-P-0111 at the confirmation hearing.² It also describes the Witness's testimony as covering general topics with limited direct relevance to Mr Al Hassan.³
5. In light of this, and given the limited information available to the Defence to assess the materiality of the information proposed to be withheld, the Defence does not, at this stage, oppose the Prosecution's Request to withhold the identity of Witness MLI-OTP-P-0111.
6. Considering however that documents disclosed by the Prosecution under rule 77 of the RPE may be exculpatory in nature or otherwise material to the preparation of the defence case, the Defence reserves the right to request the disclosure of Witness MLI-OTP-P-0111's identity and other relevant information, including the documents contained in Annexes B and C of the Prosecution's Request, should the materiality of this information to Mr Al Hassan's case subsequently become apparent.

¹ *Al Hassan*, Confidential redacted version of the "Prosecution's Request for authorisation to withhold the identity of Witness MLI-OTP-P-0111 upon whose evidence the Prosecution will not rely at the confirmation hearing", 6 September 2018, ICC-01/12-01/18-117-Conf-Exp-Red (the Prosecution's **Request**).

² *ibid*, paras 6 and 37.

³ *ibid*, paras 22 and 42.



Yasser Hassan
Lead Counsel for Mr Al Hassan

Dated this 17th Day of September 2018
At The Hague, The Netherlands