

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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Date: **31 January 2020**

TRIAL CHAMBER X

Before: Judge Kimberly Prost, 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 submissions on the victim participation procedure

Source: Office of the Prosecutor

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

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Introduction

1. In compliance with the 20 December 2019 decision of the Single Judge of Trial Chamber X (“Chamber”),¹ the Prosecution hereby provides its submissions on the victim participation procedure, including its response to some issues raised in the “Registry Report on Victim Application Process in Compliance with Paragraph 13 of the 20 December 2019 Decision” (“Registry report”).²

Submissions

Admission process

2. The Prosecution supports Option 1 proposed in paragraphs 11 and 12 of the Registry report, which is in line with the system adopted at the pre-trial stage of the proceedings in this case, with one modification. At the pre-trial stage, both Parties received only redacted versions of Group C applications. However, given that no security issue would arise from granting it access to the identifying information of applicants, unredacted versions should be transmitted to the Prosecution. For example, in *Ongwen*,³ *Gbagbo*,⁴ and *Ruto et al.*,⁵ the Chambers ordered the transmission of unredacted versions of applications to the Prosecution, in light of its obligations to protect victims under articles 54(1)(b) and 68(1) of the Statute. This approach is also consistent with the guidance provided in the Chambers Practice Manual, which envisages the transmission of redacted versions to the Defence only.⁶

¹ ICC-01/12-01/18-536.

² ICC-01/12-01/18-563-Anx-Red2.

³ ICC-02/04-01/15-205, para.35. The system adopted at the pre-trial phase was maintained at trial: ICC-02/04-01/15-432, para.4; ICC-02/04-01/15-T-25-ENG, p. 29, l. 23-24.

⁴ ICC-02/11-01/11-86, para.42-43. Applications were transmitted to the Prosecution in unredacted form also at the trial stage: ICC-02/11-01/11-800, para.51.

⁵ ICC-01/09-01/11-169, para.11-15.

⁶ Chambers Practice Manual, 2019, p.29, paragraph 96(vi): “Consistent with Article 68(1) of the Statute, which is also explicitly referred to in Rule 89(1) of the Rules, if there exist security concerns in case the applicant’s identity and involvement with the Court were to be known to the Defence, the Registry transmits the application, and any supporting documentation, to the Defence in redacted form, expunging the person’s identifying information.”

3. Should the Chamber decide to follow the approach proposed in paragraph 15 of the Registry report whereby Group A and C applications would be transmitted to the Parties, the Prosecution similarly requests access to unredacted versions thereof.

No cut-off date for the transmissions

4. As detailed in the Registry report,⁷ due to the extremely volatile security situation in Mali, there are particular challenges in reaching out to victims who may wish to participate in the trial proceedings. The Prosecution accordingly supports the Registry's proposal that no cut-off date should be set for the transmission of applications to the Chamber.⁸

Proposed amendments to the Template Application Form

5. The Prosecution has no objection to the amendments to the template application form proposed by the Registry.⁹

Conclusion

6. The Prosecution requests the Single Judge to adopt the system of victims participation as proposed in this filing.



Fatou Bensouda, Prosecutor

Dated this 31st January 2020
At The Hague, The Netherlands

⁷ See, for example, ICC-01/12-01/18-563-Anx-Red2, para.8, 21.

⁸ ICC-01/12-01/18-563-Anx-Red2, para.20- 21.

⁹ ICC-01/12-01/18-563-Anx-Red2, para.22-25.