

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

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

Date: 10 March 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

With confidential Annexes A and B

**Prosecution report regarding review of redactions applied to
the evidence disclosed in the Al Hassan case**

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, Prosecutor
Mr James Stewart

Counsel for the Defence

Ms Melinda Taylor
Ms Marie-Hélène Proulx

Legal Representatives of the Victims

Mr Seydou Doumbia
Mr Mayombo Kassongo
Mr Fidel Luvengika Nsita

Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented Applicants

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 Other Section

Prosecution Report

1. On 30 December 2019, the Single Judge of Trial Chamber X issued a decision requiring the Prosecution to review and report back on existing redactions applied to the evidence disclosed in the *Prosecutor v Al Hassan* (“*Al Hassan*”) case, and to re-disclose material in lesser redacted forms (“*Decision*”).¹ In particular, the Single Judge instructed that whenever any existing redactions covered by standard justifications are no longer considered justified, they should be immediately lifted and re-disclosed, and specifically ordered that:

) by 10 February 2020, the Prosecution must: (i) conduct a review of all non-standard redactions applied and report back to the Chamber;² (ii) make any individual application for the retention of non-standard redactions, if required,³ including pursuant to regulation 42 of the Regulations of the Court;⁴ and,

) by 24 February 2020, the Prosecution must review and report on standard categories B.2. and B.3. redactions⁵ to determine whether they remain justified. The Single Judge stated that such redactions pursuant to these categories are “only justified when they concern individuals who are of no relevance to a known issue in the case”;⁶

2. On 22 January 2020, the Single Judge granted the Prosecution’s request⁷ to extend the time limits in which to conduct the review of redactions, until 10 March 2020.⁸

¹ ICC-01/12-01/18-546.

² ICC-01/12-01/18-546, p.11.

³ ICC-01/12-01/18-546, p.11.

⁴ ICC-01/12-01/18-546, p.11.

⁵ ICC-01/12-01/18-546, p.11.

⁶ ICC-01/12-01/18-546, para.22, p.9-10.

⁷ ICC-01/12-01/18-552-Conf-Exp. Confidential and public redacted versions of this request were notified the next day (ICC-01/12-01/18-552-Conf-Red and ICC-01/12-01/18-552-Red2).

⁸ ICC-01/12-01/18-558, para. 14, p. 10.

3. The Prosecution provides its report regarding its review of non-standard redactions and standard categories B.2. and B.3. redactions.
4. The Prosecution further updates the Single Judge on its review of other standard category redactions.
5. As of 10 March 2020, the Prosecution has disclosed 25,947 items of evidence ("Evidence"). The Prosecution has reviewed the Evidence to assess whether redactions should be retained or may be lifted, as ordered by the Single Judge. The Prosecution has lifted redactions that it considers are no longer justified, in compliance with the Decision and re-disclosed the relevant materials on a rolling basis.

Non-standard redactions

6. After conducting its review of the non-standard redactions, the Prosecution reports that the identity of 77 incriminatory witnesses (out of the currently 84 listed incriminatory witnesses) has been disclosed to date (see Annex A).
7. For the remaining seven incriminatory witnesses, the Prosecution has submitted a request for rolling disclosure concerning six Prosecution witnesses P-0538, P-0542, P-0553, P-0570, P-0574, and P-0603⁹ (disclosure to take place 45 days prior to their testimony), and a request for a temporary delayed disclosure for some weeks regarding Prosecution witness P-0639.¹⁰
8. In addition, the Prosecution has disclosed the identity of the rule 77 witnesses but made requests regarding non-disclosure of information identifying ten regulation 42 witnesses whose evidence was disclosed under rule 77 of the Rules (P-0105,¹¹ P-0120,¹² P-0121,¹³ P-0123,¹⁴ P-0128¹⁵ and P-0129,¹⁶ P-0140,¹⁷ P-0154,¹⁸ P-0357,¹⁹

⁹ ICC-01/12-01/18-646-Conf-Exp.

¹⁰ ICC-01/12-01/18-639-Conf-Exp.

¹¹ ICC-01/12-01/18-627-Conf-Exp.

¹² ICC-01/12-01/18-628-Conf-Exp.

¹³ ICC-01/12-01/18-645-Conf-Exp.

and P-0523²⁰).

9. Lastly, the Prosecution has requested lifting of the redactions to the identity of regulation 42 witness P-0107²¹ whose evidence was disclosed under article 67(2), and requested the non-disclosure of the identity of P-0543 and other redactions regarding her evidence, which is to be disclosed under article 67(2).²²

Standard category B.2. and B.3. redactions

10. The Prosecution has lifted the majority of B.2 and B.3 redactions applied to the Evidence. The remaining B.2 and B.3 redactions are only applied in 382 documents.²³ Such redactions essentially concern the identities of family members or other innocent third persons who are of no relevance to any known issue in the case (see annex B).

Review of other standard category redactions

11. Further, the Prosecution has reviewed its redactions under other standard redaction categories, to assess whether redactions remain justified or should be lifted.

12. In this regard, the Prosecution indicates *inter alia* as follows:

) The Prosecution has lifted all redactions previously applied under code B.5;

) The Prosecution has lifted redactions to names of Prosecution

¹⁴ ICC-01/12-01/18-641-Conf-Exp.

¹⁵ ICC-01/12-01/18-627-Conf-Exp.

¹⁶ ICC-01/12-01/18-627-Conf-Exp.

¹⁷ ICC-01/12-01/18-628-Conf-Exp.

¹⁸ ICC-01/12-01/18-627-Conf-Exp.

¹⁹ ICC-01/12-01/18-645-Conf-Exp.

²⁰ ICC-01/12-01/18-641-Conf-Exp.

²¹ ICC-01/12-01/18-645-Conf-Exp.

²² ICC-01/12-01/18-647-Conf-Exp.

²³ It is possible that the system has not taken into account the changes made in packages disclosed on 10 March 2020 yet, due to technical functionalities.

investigators, which were previously redacted under code A.4;

-) Where the security-situation of the individual or organisation permits, the Prosecution has lifted certain redactions of identities: (a) of sources under code A.6.1., code A.6.2. and code A.6.3, and (b) of staff or non-staff no longer at the Court and/or no longer operating in the field in Mali, under codes A.2.4, A.2.6 and A.8;
-) The Prosecution has lifted redactions to the cities in which interviews were conducted, and only retained redactions to specific interview locations under code A.1;
-) It has also lifted redactions under code A.3.2 to the identity of a non-staff interpreter who participated in the Prosecution interview with the Accused; and
-) The Prosecution has lifted certain redactions applied under code A.5.

13. The Prosecution has retained redactions under standard redactions categories that remain necessary, *inter alia* redactions regarding recent contact information of witnesses (code B.1), locations of witnesses in the ICCPP (code B.4), and internal work product (code E).

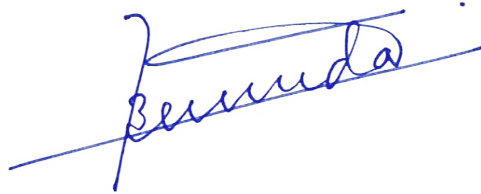
14. The Prosecution attaches to this filing two annexes:

-) Annex A: a provisional list of Prosecution witnesses whom the Prosecution intends to call to testify at trial with an indication of their disclosure status;
-) Annex B: a chart containing all of the remaining B.2 and B.3 redactions in the content of the items²⁴. It lists all evidence containing such redactions at that stage.

²⁴ It is not technically possible to list the changes made in the metadata

Confidentiality

15. Annexes A and B are classified as confidential as they contain confidential information.



Fatou Bensouda, Prosecutor

Dated this 10th of March 2020

At The Hague, The Netherlands