

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

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

Date: **20 August 2020**

Date of submission:

18 September 2020

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***

Public

With confidential Annex A

**Public redacted version of the “Prosecution Request for an order giving effect to conditions in relation to the testimony of Witness MLI-OTP-P-0151”,
20 August 2020, ICC-01/12-01/18-1005-Conf**

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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Victims and Witnesses Section

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Other

Introduction

1. The Prosecution seeks an order from Trial Chamber X (“the Chamber”), pursuant to its powers under articles 64(6)(c), 64(6)(e), 64(6)(f) and 68 of the Rome Statute, to allow the requested conditions to the testimony of Witness P-0151, as outlined further below.
2. P-0151 is a former [REDACTED] who served as an [REDACTED]
[REDACTED]
and, subsequently, as a [REDACTED]
[REDACTED] The Prosecution intends to call him to testify in the present case.

Confidentiality

3. This filing and Annex A are classified as “confidential” due to the confidential nature of the information addressed therein.

Background

4. In 2015, [REDACTED] was contacted in order to obtain the statement of one [REDACTED] official with a view to acquire information and clarification on the [REDACTED]
[REDACTED] and more particularly with regard to the [REDACTED]

5. On 30 July 2015, [REDACTED] authorised and designated Witness P-0151 to give a statement and testify on the information and clarification sought. P-0151 [REDACTED]
[REDACTED]
6. Subsequently, the written statement of P-0151 has been relied upon by the Prosecution at the confirmation of charges hearing in the *Al Hassan* case, and copies of that statement and related annexes have been disclosed to the Defence.
7. On 11 May 2020, The Prosecution sought again [REDACTED] authorization for Witness P-0151 to provide testimony ([REDACTED] during the trial in the *Al Hassan* case (“the Al Hassan trial”).
8. On 16 July 2020, the Prosecution received a letter from [REDACTED] authorizing the testimony by witness P-0151. However, [REDACTED] recalled that P-0151, as a [REDACTED]
[REDACTED]
[REDACTED] provided specific conditions, as outlined further below [REDACTED]

Prosecution's submissions

9. The Prosecution seeks an order from the Chamber giving effect to the conditions of [REDACTED] regarding the anticipated testimony of Witness P-0151.

The requested conditions

10. In view of his former positions at [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

11. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

P-0151 so as to allow him to provide expert testimony at the Court (see Annex A).

¹ [REDACTED]
[REDACTED]

- [illegible]

13. [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

The necessity of these conditions and lack of prejudice for Defence

14. The requested conditions are reasonable and necessary. They aim at limiting the exposure of [REDACTED] and in particular protect confidential information and [REDACTED] more particularly in Mali; the witness; other [REDACTED] current and former employees; [REDACTED] and innocent third parties who might be placed at risk as a result of testimony by [REDACTED] former official in this case.

15. [REDACTED] had been actively working in Mali before the armed conflict which started in January 2012, and has continued to be present until today, including in contributing to the [REDACTED]

against collaborators, [REDACTED]

[REDACTED]

[REDACTED]."⁵

19. The Prosecution further submits that the aforementioned conditions will not affect the substance of the evidence of Witness P-0151 or have any negative impact on the defence preparation. As can be seen from the statement of P-0151,⁶ the witness essentially gave information on [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

20. As can be also seen from his statement, P-0151 has no direct knowledge of the circumstances in which the attack occurred:

- He was not present in Timbuktu when the town was occupied or when the [REDACTED];
- As such, his evidence on the manner in which the sites were destroyed and the persons responsible would, at best, be hearsay.

21. As a matter of fact, P-0151's evidence is that of an [REDACTED] and goes to the relevance of the [REDACTED]

⁵ VWS Observations, para. 5.

⁶ MLI-OTP-0029-0843.

██████████ In that regard, the imposition of the aforementioned conditions will not prevent the Defence from cross-examining P-0151 on issues that are relevant, probative and necessary for a fair evaluation of his testimony in accordance with article 69(4) of the Rome Statute.

22. Last, the Defence will also have the opportunity to put questions on the ██████████ to other relevant witnesses (such as Witness P-0150 and P-0431 or P-0114), and rely for its submissions on all the evidence submitted to the Chamber.

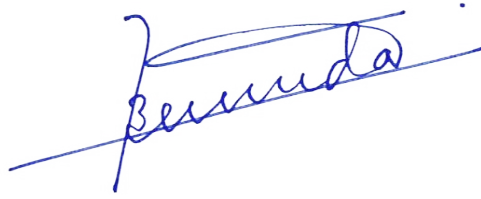
23. It should be noted that ██████████ has granted a similar request in relation ██████████⁷

Relief requested

24. The Prosecution requests an order giving effect to the aforementioned conditions attached by ██████████ for P-0151, as listed above and referenced in Annex A.

25. The Prosecution further seeks authorisation from the Chamber to submit to ██████████ if necessary, a copy of the Chamber's decision.

⁷ ██████████



Fatou Bensouda, Prosecutor

Dated this 20th day of August 2020

At The Hague, The Netherlands