



Original: English

**No. ICC-01/12-01/18
Date: 25 September 2020**

TRIAL CHAMBER X

**Before: Judge Antoine Kesia-Mbe Mindua, Presiding Judge
Judge Tomoko Akane, Judge
Judge Kimberly Prost, Judge**

SITUATION IN THE REPUBLIC OF MALI

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

Public

**Public redacted version of ‘Decision on Defence’s request for a status
conference’**

Decision to be notified in accordance with Regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

Fatou Bensouda
James Stewart

Counsel for the Defence

Melinda Taylor

Legal Representatives of Victims

Seydou Doumbia
Mayombo Kassongo
Fidel Luvengika Nsita

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

The Office of Public Counsel for Victims

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

States Representatives

Amicus Curiae

REGISTRY

Registrar

Peter Lewis

Counsel Support Section

Esteban Peralta Losilla

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Trial Chamber X (the ‘Chamber’) of the International Criminal Court, in the case of *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, having regard to Article 64 (2) of the Rome Statute (‘Statute’), issues the following ‘Decision on Defence Request for a Status Conference’.

1. On 7 July 2020, the Chamber was notified of Ms Nicoletta Montefusco’s appointment as Associate Counsel for Mr Al Hassan.¹
2. On 18 September 2020, Ms Montefusco filed a request, seeking the Chamber’s authorisation to withdraw from the position of Associate Counsel as of 21 September 2020 (the ‘Withdrawal Request’).² The Withdrawal Request was made without the consent of the Defence Lead Counsel (the ‘Lead Counsel’) or the accused.³
3. On 22 September 2020, having heard from the Lead Counsel and Ms Montefusco,⁴ the Chamber issued a decision granting the Withdrawal Request (the ‘Decision’).⁵ The Chamber additionally directed the Registrar to appoint, as soon as feasible, an independent counsel whose sole mandate is to engage with Mr Al Hassan with a view of establishing whether he wishes to raise any issue related to his legal representation.⁶
4. On the same date, the Defence Lead Counsel sent an email expressing her views that ‘[REDACTED]’. The Defence submits that the Decision ‘[REDACTED]’. [REDACTED]. As a result, the Defence requested that an urgent *ex parte* status conference be held to address these issues.⁷

¹ Notification of the Appointment of Ms Nicoletta Montefusco as Associate Counsel for Mr Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, ICC-01/12-01/18-934.

² Request for withdrawal, ICC-01/12-01/15-1054.

³ Request, ICC-01/12-01/18-1054, para. 2.

⁴ Transcript of hearing of 21 September 2020, ICC-01/12-01/18-T-027-CONF-ENG ET, pp. 3, 5-6; Email sent by Defence Lead Counsel to Trial Chamber X Communications 21 September 2020, at 15:42.

⁵ Decision on Associate Counsel’s request to withdraw, ICC-01/12-01/18-1065-Conf. A public redacted version as filed on the same day (ICC-01/12-01/18-1065-Red).

⁶ Decision, ICC-01/12-01/18-1065-Conf, para. 12.

⁷ Email from Defence to Trial Chamber X Communications on 22 September 2020 at 17:05.

5. [REDACTED]. As set out in the Decision,⁸ the Chamber's sole concern lies with Mr Al Hassan and whether he has any issues that he wishes to report in relation to his legal representation. This concern was triggered by the objective facts set out in paragraphs 9 and 10 of the Decision [REDACTED]. Beyond this, the Chamber's concerns do not extend to any other matters, such as [REDACTED]. This is why, the Chamber wishes to hear *directly*, through an independent counsel, whether Mr Al Hassan has any concerns to share in respect of his legal representation.
6. As a result, the Chamber does not deem the status conference requested to be useful. However, should the Defence wish to submit any further observations, including statements from previous associate counsel if deemed relevant, it is free to do so, by way of written submissions to be filed by Wednesday 30 September 2020.

FOR THESE REASONS, THE CHAMBER HEREBY

REJECTS the Request; and

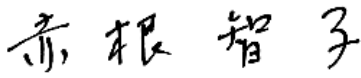
DIRECTS that any Defence observations be filed by Wednesday 30 September 2020.

⁸ Decision, ICC-01/12-01/18-1065-Conf, para. 11.

Done in both English and French, the English version being authoritative.



Judge Antoine Kesia-Mbe Mindua
Presiding Judge



Judge Tomoko Akane



Judge Kimberly Prost

Dated this Friday, 25 September 2020

At The Hague, The Netherlands