



Original: English

**No. ICC-01/12-01/18
Date: 20 October 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 redacted version of

Decision on Independent Counsel's Report

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
Kirsty Sutherland

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

Ms Catherine Mabilie

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’) and Regulation 78(1) of the Regulations of the Court (the ‘Regulations’), issues the following ‘Decision on Independent Counsel’s Report’.

1. On 22 September 2020, and as a result in particular of the recurring withdrawals of associate counsel in the Defence team, the Chamber directed the Registrar to appoint an independent counsel as soon as feasible, in order ‘to engage with Mr Al Hassan with a view of establishing whether he wishes to raise any issue related to his legal representation’ (the ‘Decision Appointing an Independent Counsel’).¹ The Chamber decided that ‘[s]hould any issue be identified by the independent counsel, he or she shall report to the Trial Chamber, on an *ex parte* basis, within 15 days from his or her appointment’.²
2. On 28 September 2020, the Registrar appointed Ms Catherine Mabilille as Independent Counsel.³
3. On 9 October 2020, the Independent Counsel transmitted her report directly to the Chamber (the ‘Report’).⁴
4. The Chamber observes that in her Report, [REDACTED].
5. The Independent Counsel concludes [REDACTED]:

a) [REDACTED];

¹ Decision on Associate Counsel’s request for withdrawal, ICC-01/12-01/18-1065-Conf, para. 12. A public redacted version was filed that same date ICC-01/12-01/18-1065-Red.

² Decision Appointing an Independent Counsel, ICC-01/12-01/18-1065-Red, para. 13.

³ Independent Counsel’s Report dated 9 October 2020. *See also* e-mail from the Registry to Trial Chamber X Communications on 30 September 2020 at 14:09.

⁴ E-mail from Ms Catherine Mabilille to Trial Chamber X at 16:18. *See also* e-mail of Trial Chamber X Communications to the Registry on 9 October 2020 at 9:40, indicating that the report is to be directly transmitted to the judges’ e-mail addresses. In the same communication, the Chamber directed the Independent Counsel to submit a one-page formal filing, indicating that the report has been transmitted to the Trial Chamber. The Chamber notes this filing is still pending. However, in light of the present decision, this is now moot and thus no longer necessary. *See also* Transmission du rapport de mission du Conseil indépendant établi conformément à la "Public redacted version of "Decision on Associate Counsel's request for withdrawal", 16 October 2020, ICC-01/12-01/18-1112-Conf-Exp.

b) [REDACTED];

c) [REDACTED].

6. [REDACTED].
7. The Chamber reiterates its findings in the Decision Appointing an Independent Counsel, that recurring withdrawals of Associate Counsel could have a potential impact on the trial, particularly at this stage of the proceedings, where the presentation of evidence has now started and witnesses are scheduled to testify continuously in the coming months.⁵
8. The Chamber notes on one hand that pursuant to the Independent Counsel's Report, Mr Al Hassan fully trusts his Lead Counsel. On the other, the Chamber notes that the Report raises some issues of potential concern.
9. Lead Counsel should take note of these matters and endeavour to take necessary steps to resolve potential issues.
10. The Chamber does not deem it necessary to take any further steps at this stage.

⁵ Decision Appointing an Independent Counsel, ICC-01/12-01/18-1065-Red, para. 10.

FOR THESE REASONS, THE CHAMBER HEREBY

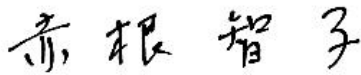
TAKES NOTE of the content of the Independent Counsel's Report.

RELIEVES the Independent Counsel of her duties.

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 Tuesday, 20 October 2020

At The Hague, The Netherlands