



Original: English

**No. ICC-01/12-01/18
Date: 14 December 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

Fourth decision on the admission of victims to participate in trial proceedings

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

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Legal Representatives of Victims

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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
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**Victims Participation and Reparations
Section**

Philipp Ambach

Other

TRIAL CHAMBER X 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 68(1) and (3) of the Rome Statute, Rules 85, 86 and 89 to 92 of the Rules of Procedure and Evidence (the ‘Rules’), and Regulation 86 of the Regulations of the Court, issues this ‘Fourth decision on the admission of victims to participate in trial proceedings’.

I. Procedural history and submissions

1. On 12 March 2020, the Chamber issued its ‘Decision on the procedure for the admission of victims to participate in proceedings for the purposes of trial’ (the ‘First Decision on Victims’ Participation’).¹ In this decision, the Chamber set a procedure for the admission of victims to participate in the trial proceedings. It relevantly maintained the admission procedure determined by Pre-Trial Chamber I in its decision of 24 May 2018, whereby the Chamber would ratify the Registry’s assessment of Groups A and B application forms, ‘barring a “clear and material error”’.²
2. In its First Decision on Victims’ Participation, the Chamber also adopted various deadlines for the transmission of victim applications for participation at trial. It relevantly decided that Group A applications (applicants who clearly qualify as victims) were to be transmitted to the Chamber no later than 15 days before the commencement of trial,³ set for 14 July 2020.⁴ This deadline was subsequently extended to the end of the Prosecution case, following a request from the Registry and the Legal Representatives of Victims (the ‘LRVs’) on the basis of the current COVID-19 pandemic.⁵ The Chamber instructed the Registry to file the newly

¹ [First Decision on Victims’ Participation](#), ICC-01/12-01/18-661.

² [First Decision on Victims’ Participation](#), ICC-01/12-01/18-661, para. 1, *referring to* Pre-Trial Chamber I, [Decision Establishing the Principles Applicable to Victims’ Applications for Participation](#) (hereinafter: ‘Pre-Trial Decision’), ICC-01/12-01/18-37-tENG, para. 59(ix).

³ [First Decision on Victims’ Participation](#), ICC-01/12-01/18-661, para. 29.

⁴ [Decision Setting the Commencement Date of the Trial](#), ICC-01/12-01/18-548.

⁵ [Decision on request for extension of deadlines for the final transmission of victim applications for participation at trial \(hereinafter: ‘Decision Extending the Deadline’\)](#), 12 June 2020, ICC-01/12-01/18-880, paras 9-14.

collected applications ‘on a rolling basis in periodic intervals’, and to notify its corresponding Assessment Reports within the same deadline.⁶

3. On 17 June 2020, the Chamber rendered its ‘Second decision on the admission of victims to participate in trial proceedings’ (the ‘Second Decision on Victims’ Participation’).⁷ In this decision, the Chamber admitted four Group C applicants as participating victims for the purposes of the trial proceedings and deferred its ruling as regard the status of one applicant.⁸
4. On 24 June 2020, the Registry filed the ‘Registry’s Second Assessment Report on Victim Applications for Participation in Trial Proceedings’ (the ‘Second Report’).⁹ On 25 June 2020, the Registry transmitted 209 Group A applications to the Chamber (the ‘First Transmission’).¹⁰ On 29 June 2020, the Registry filed the ‘Registry’s Third Assessment Report on Victim Applications for Participation in Trial Proceedings’ (the ‘Third Report’).¹¹ On the same day, the Registry transmitted 888 Group A applications to the Chamber (the ‘Second Transmission’).¹² On 15 July 2020, in accordance with instructions from the Chamber,¹³ the Registry corrected its erroneous transmission to the Chamber of eight annexes pertaining to a different case record and filed with its First Transmission,¹⁴ and replaced them by eight correct Group A application forms bearing the title ‘Corrigendum’ along with an explanatory note.¹⁵

⁶ Decision Extending the Deadline, ICC-01/12-01/18-880, para. 13.

⁷ [Second Decision on Victims’ Participation](#), ICC-01/12-01/18-886-Red2.

⁸ [Second Decision on Victims’ Participation](#), ICC-01/12-01/18-886-Red2, paras 16, 20-23.

⁹ [Second Report](#), ICC-01/12-01/18-900 (with one confidential annex).

¹⁰ [Registry First Transmission of Group A Victim Applications for Participation in Trial Proceedings](#), ICC-01/12-01/18-901 (with 209 confidential *ex parte* annexes).

¹¹ [Third Report](#), ICC-01/12-01/18-910 (with two confidential annexes).

¹² [Registry Second Transmission of Group A Victim Applications for Participation in Trial Proceedings](#), ICC-01/12-01/18-913, with 888 confidential *ex parte* annexes. This transmission was completed on 2 July 2020 ‘due to some technical issues related to the amount of annexes’. See email from the Court Management Section, 2 July 2020, 15:18.

¹³ Email from the Chamber, 3 July 2020, at 14:54.

¹⁴ See for example Explanatory Note to Corrigendum to Annex 15 to the Registry’s First Transmission, ICC-01/12-01/18-901-Conf-Exp-Anx15-Corr-Anx, para. 3.

¹⁵ ICC-01/12-01/18-901-Conf-Exp-Anx15-Corr; ICC-01/12-01/18-901-Conf-Exp-Anx41-Corr; ICC-01/12-01/18-901-Conf-Exp-Anx79-Corr; ICC-01/12-01/18-901-Conf-Exp-Anx101-Corr; ICC-01/12-01/18-901-Conf-Exp-Anx102-Corr; ICC-01/12-01/18-901-Conf-Exp-Anx125-Corr; ICC-01/12-01/18-901-Conf-Exp-Anx126-Corr; ICC-01/12-01/18-901-Conf-Exp-Anx141-Corr.

7. On 10 August 2020, the Chamber rendered its ‘Third decision on the admission of victims to participate in trial proceedings’ (the ‘Third Decision on Victims’ Participation’), admitting 1,097 Group A applicants as participating victims for the purposes of the trial proceedings and rejecting 47 Group B applicants.¹⁶
8. On 13 November 2020, the Registry filed its ‘Registry’s Fourth Assessment Report on Victim Applications for Participation in Trial Proceedings’ (the ‘Fourth Report’), detailing the assessment criteria used to determine whether the applicants fall within Group A.¹⁷ The Fourth Report mentions that minor discrepancies found in some applications are solely related to the spelling of the applicants’ names and do not affect their qualification as victims.¹⁸ The Registry also mentions that 57 applicants are currently unrepresented by the LRVs.¹⁹ Finally, the annex to the Fourth Report provides a list identifying the victims.²⁰
9. On the same day, the Registry filed its ‘Registry Third Transmission of Group A Victim Applications for Participation in Trial Proceedings’ (the ‘Third Transmission’), annexing the 183 Group A applications to its filing.²¹

II. Applicable law

10. The Chamber refers to its previous decisions and the consistent jurisprudence on Rule 85 of the Rules as set out by the Single Judge of Pre-Trial Chamber I.²² It is recalled, in particular, that individuals seeking to be admitted as participating victims will have to demonstrate *prima facie* that they are victims within the meaning of Rule 85 of the Rules and shall therefore meet the following criteria: i) the applicant has established his/her identity as a natural person; ii) the applicant is alleged to have suffered harm; and iii) the personal harm reported by

¹⁶ Third Decision on Victims’ Participation, ICC-01/12-01/18-992.

¹⁷ Fourth Report, ICC-01/12-01/18-1152, paras 22-24, (with one confidential Annex, ICC-01/12-01/18-1152-Conf-Anx).

¹⁸ Fourth Report, ICC-01/12-01/18-1152, para. 23.

¹⁹ Fourth Report, ICC-01/12-01/18-1152, para. 23.

²⁰ Fourth Report, ICC-01/12-01/18-1152, paras 22-24.

²¹ Third Transmission, ICC-01/12-01/18-1153 (with 183 confidential *ex parte* annexes available only to the Registry and the LRVs).

²² [First Decision on Victims’ Participation](#), ICC-01/12-01/18-661, para. 8; [Second Decision on Victims’ Participation](#), ICC-01/12-01/18-886-Red2, para. 8; Third Decision on Victims’ Participation, ICC-01/12-01/18-992, para. 10.

the applicant resulted from an incident falling within the temporal, geographic and material parameters of the case (the ‘Rule 85(a) Test’).²³

III. Analysis

A. Group A applications

11. In its Third Transmission, the Registry communicated to the Chamber a total of 183 Group A applications. It carried out an assessment of these applications and concluded that they fall within Group A as they meet the required conditions for the granting of victim status under the Rule 85(a) Test indicated above.
12. The Chamber has not identified any clear and material error in the Registry’s Fourth Report and therefore authorises the participation as victims of 183 applicants whose applications were transmitted within Group A.
13. However, the Chamber notes that contrary to prior transmissions, the attached annexes do not contain any indication as to the corresponding victim code (a/.../18).

B. Legal representation

14. The Registry notes that 126 of the applicants are already represented by the LRVs, while 57 of them are unrepresented.²⁴ Accordingly, as recommended by the Registry,²⁵ and further to its prior rulings on this matter,²⁶ the Chamber hereby appoints the single team of LRVs to represent the 57 currently unrepresented victims.

²³ [Pre-Trial Decision](#), ICC-01/12-01/18-37-tENG, para. 48.

²⁴ Fourth Report, ICC-01/12-01/18-1152, para. 23.

²⁵ Registry Report on the implementation of Trial Chamber X’s Decision of 20 December 2019, ICC-01/12-01/18-563-Anx-Red2, 27 January 2020, para. 27.

²⁶ [First Decision on Victims’ Participation](#), ICC-01/12-01/18-661, para 39; Third Decision on Victims’ Participation, ICC-01/12-01/18-992, para. 13. *See also* Decision on the request from the legal representatives of victims in relation to the representation of victims, 15 May 2020, ICC-01/12-01/18-816; and Email from the Chamber to LRVs, 12 December 2019, at 9:28.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

DECIDES to admit the 183 above mentioned applicants as participating victims for the purpose of the trial proceedings;

DECIDES that the LRVs shall represent the 183 victims hereby admitted;

INSTRUCTS the Registry to indicate on the record the victim code for each corresponding annex of its Third Transmission; and

INSTRUCTS the Registry to transmit copies of the victims' applications for participation to the LRVs hereby appointed to represent them.

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 14 December 2020

At The Hague, The Netherlands