

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-01/12-01/18
Date: 30 November 2020
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5 February 2021

TRIAL CHAMBER X

Before: Judge Antoine Kesia-Mbe Mindua, Presiding
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 "Prosecution's rule 68 application to introduce MLI-
OTP-P-0524's statements and associated material into evidence",
30 November 2020, ICC-01/12-01/18-1169-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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Introduction

1. The Prosecution requests Trial Chamber X's ("Chamber") authorisation to (i) introduce into evidence Witness P-0524's statement and associated material as specified in Annex A to the present application pursuant to rule 68(3) of the Rules of Procedure and Evidence ("Rules"); and (ii) conduct a supplementary examination of Witness P-0524 ("Request").

2. Witness P-0524 ("P-0524") [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Her testimony is mainly relevant to the charges of forced marriages as other inhumane acts (count 8), sexual slavery (counts 9 and 10), rape (count 11 and 12), cruel treatment (count 4) and persecution (count 13), as well as the contextual elements of the crimes against humanity.

3. P-0524 is scheduled to testify in 2021.¹ This Request is filed in accordance with the Chamber's instruction that rule 68(3) applications relating to any witnesses due to appear beyond the end of this year be filed by 30 November 2020.²

4. Should this Request be granted, P-0524 will be asked to attest to the accuracy of her statement during her testimony and to confirm that she has no objection to the submission of her statement and associated material into evidence.

² ICC-01/12-01/18-1004, para. 21.

5. Considering that P-0524 [REDACTED] provide evidence on sexual crimes, including pattern evidence, the Prosecution estimates that it will require 1 hour 30 minutes for her examination-in-chief. This time estimate includes the formalities associated with the introduction into evidence of her statement and associated material, as well as a supplementary examination of P-0524 necessary to clarify her evidence. The Prosecution will seek clarifications on [REDACTED] and [REDACTED]

6. Granting the Request would not be prejudicial to the rights of the Accused and would enhance the expeditiousness of the proceedings by keeping the length of Witness P-0524's in-court testimony considerably shorter than the expected 5 hours of examination-in-chief.

Confidentiality

7. Pursuant to regulation 23*bis*(1) of the Regulations of the Court, the Prosecution files this submission and its accompanying annex as confidential because they contain confidential information including information regarding the identity of Prosecution witness P-0524, in addition to referring to filings classified as confidential. The Prosecution shall file a public redacted version in due course.

Prosecution's Submissions

8. Rule 68(3) of the Rules provides that the Chamber may allow the introduction of the previously recorded testimony of a witness who is present before the Chamber where the individual does not object to its submission and the Parties and the Chamber have the opportunity to examine the witness.

9. The Prosecution identified P-0524 as an appropriate witness for the procedure under rule 68(3) of the Rules and seeks to introduce into evidence P-0524's previously recorded testimony and associated material in full as set out in Sections I and II of Annex A appended to this filing.

Section I of Annex A: P-0524's prior statement

10. Listed in section I of Annex A is P-0524's prior recorded testimony, which the Prosecution seeks to introduce in full.

11. It consists of a statement signed by P-0524 [REDACTED] following an interview with the OTP [REDACTED].³ In her statement, P-0524 states that she worked [REDACTED]

[REDACTED] committed during the occupation of the city by armed groups. P-0524 describes how [REDACTED]

[REDACTED] - [REDACTED]
[REDACTED] P-0524 also provides information about the scale, nature and pattern of the crimes of sexual violence committed in Timbuktu [REDACTED]

[REDACTED] allegations of crimes against humanity and war crimes, including sexual violence crimes. She also

[REDACTED]
[REDACTED]
[REDACTED] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

12. P-0524 [REDACTED]
[REDACTED]

13. Her statement was given voluntarily to the investigators⁴ in a language that P-0524 understood and spoke fluently.⁵ P-0524 was informed that her statement could be used in a judicial procedure before the ICC and that she could be called to testify.⁶ Her statement was read back to her;⁷ she signed it on the first and last page⁸ and put her initials on all other pages. Moreover, P-0524 will be in a position to correct or amend her statement as well as explain, and be cross-examined on, all aspects of her testimony.

Section II of Annex A: the associated material

14. Listed in section II of Annex A is the material associated with P-0524's prior recorded testimony, which the Prosecution also seeks to introduce into evidence.

15. This material consists of three items of evidence: (i) a video related to the said [REDACTED] that was shown to P-0524 during her interview by members of the Office of the Prosecutor, (ii) the transcript of the video; and (iii) a short statement signed by P-0524 in which [REDACTED]
[REDACTED]

Section III of Annex A : the material necessary to understand the statement

16. Listed in section III of Annex B is the material necessary to understand P-0524's prior recorded testimony, which the Prosecution does not seek to introduce into evidence through this application.

⁴ [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

17. It consists of [REDACTED] that were shown to P-0524 during her interview.

Relevance of the Statement and associated material

18. P-0524's prior recorded testimony and associated material are mainly relevant to the charges of forced marriages as other inhumane acts (count 8), sexual slavery (counts 9 and 10), rape (count 11 and 12), cruel treatment (count 4) and persecution (count 13), as well as to the contextual elements of the crimes against humanity.

19. P-0524 will be asked to attest to the authenticity and the accuracy of her statement during her testimony⁹ and to confirm that she has no objection to the submission of her statement and associated material.

The supplementary examination

20. During its supplementary examination of P-0524, the Prosecution intends to elicit *viva voce* evidence on the collection of information [REDACTED] to further clarify her evidence in this regard. The Prosecution will seek clarification on the [REDACTED] used [REDACTED]

[REDACTED] P-0524 will also be asked information about [REDACTED]

21. The Prosecution estimates that it will require 1 hour and 30 minutes for the formalities associated with the admission of her statement and the supplementary examination-in-chief. This time estimate is necessary to elicit all relevant evidence from P-0524 [REDACTED] on sexual based crimes, including pattern evidence. [REDACTED]

⁹ ICC-01/12-01/18-789-AnxA, para.65.

[REDACTED]

22. Granting the Request would not be prejudicial to, or inconsistent with, the rights of the Accused and would enhance the expeditiousness of the proceedings by significantly shortening the length of P-0524's in-court testimony.

Should this application be rejected, the Prosecution requests that the Chamber accord the Prosecution five hours for P-0524's examination-in-chief as originally estimated for this witness.¹⁰

Conclusion

23. For the foregoing reasons, the Prosecution requests the Chamber to authorise the introduction into evidence of Witness P-0524's statement and associated material pursuant to rule 68(3) of the Rules and to authorise the Prosecution to conduct a supplementary examination-in-chief of Witness P-0524 of 1 hour 30 minutes.



Fatou Bensouda, Prosecutor

Dated this 30 November 2020

At The Hague, The Netherlands

¹⁰ ICC-01/12-01/18-740-Conf-AnxB, p. 701.