

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-01/12-01/18
Date: 13 October 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***

Confidential

With confidential Annex A

**Public redacted version of “Prosecution application to introduce MLI-OTP-P-0431’s [REDACTED] associated material into evidence”,
13 October 2020, ICC-01/12-01/18-1100-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-0431's [REDACTED] associated material, as specified in sections I and II of Annex A to the present application, pursuant to rule 68(3) of the Rules of procedure and evidence ("Rules"); and (ii) conduct a streamlined supplementary examination of Witness P-0431 ("Request").

2. More precisely, the Prosecution seeks to introduce [REDACTED] his witness statement and five annexes thereto, as well as further eight documents associated with his [REDACTED]¹ This evidence is relevant to the charges [REDACTED] and to the contextual elements of crimes against humanity.

3. Witness P-0431 [REDACTED]² [REDACTED], the Chamber considered that he may be called to testify [REDACTED] in the current proceedings.³

4. P-0431 is expected to testify in [REDACTED] 2021. Should this Request be granted, he will be asked to attest to the accuracy of his [REDACTED] and associated material during his testimony and to confirm his availability and willingness to be examined by the Parties, Legal Representatives if applicable, and the Chamber.

5. Based on past practices, the Prosecution estimates that it will require in total about 50 minutes for the examination-in-chief of P-0431; namely approximately

¹ These documents are: [REDACTED] documents that were shown to the witness [REDACTED] or are directly associated to these ([REDACTED])

² [REDACTED]
³ [REDACTED]

thirty minutes to cover the formalities associated with the introduction into evidence [REDACTED] and associated exhibits, and an additional twenty minutes to conduct a supplementary examination to elicit further focused *viva voce* evidence of certain issues, [REDACTED]
[REDACTED]
[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 [REDACTED] Witness P-0431's in-court testimony very short.

Confidentiality

7. Pursuant to regulation 23*bis*(1) of the Regulations of the Court, the Prosecution files this Request and its accompanying annex as confidential because they contain confidential information. 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 the submission, and the Parties and Chamber have the opportunity to examine the witness.
9. The Prosecution identified P-0431 as an appropriate witness for the procedure under rule 68(3) of the Rules.

10. P-0431 is expected to testify in [REDACTED] 2020. As P-0431 was originally listed in the second block of witnesses,⁴ the Prosecution's Request is timely, being filed before the 30 November 2020 deadline indicated by the Chamber.⁵

11. Attached as Annex A to this application is a chart identifying the materials which the Prosecution seeks to introduce into evidence for P-0431.

12. Listed in section I of Annex A are [REDACTED]
[REDACTED] P-0431's witness statement together with its five appended annexes in their entirety:

) Annex I to the witness statement [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].⁶ [REDACTED]
[REDACTED].⁷

) Annex II to the witness statement is a copy [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].⁸

) Annex III to the witness statement is a copy [REDACTED]
[REDACTED]
[REDACTED].⁹

⁴ [REDACTED].

⁵ See ICC-01/12-01/18-1004, 'Supplemental decision on matters related to the conduct of proceedings', [REDACTED]
[REDACTED].

⁶ Annex I,

⁷ Annex I,

⁸ Annex II,

⁹ Annex III,

) Annex IV to the witness statement [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED].¹⁰

) Annex V to the witness statement are [REDACTED] photographs [REDACTED]
 [REDACTED].¹¹

These documents [REDACTED]
 [REDACTED] are sought to be admitted
 in full because they are relevant in their totality to the issues discussed in his
 statement.

13. Listed in section II of Annex A are other materials necessary to understand [REDACTED]
 [REDACTED], which the Prosecution seeks to introduce into
 evidence. These materials are composed of (a) [REDACTED] documents that were shown to P-
 0431 [REDACTED]
 [REDACTED]¹² or are directly related to these documents,¹³ (b) one document [REDACTED]
 [REDACTED]¹⁴ and (c) one document [REDACTED].¹⁵

These materials serve to explain, *inter alia*, [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED].

14. All of these materials are relevant to the charges [REDACTED]
 [REDACTED] and to the contextual elements of crimes

¹⁰ Annex IV, [REDACTED].

¹¹ Annex V, [REDACTED].

¹² [REDACTED].

¹³ [REDACTED].

¹⁴ [REDACTED].

¹⁵ [REDACTED].

against humanity. [REDACTED]
 [REDACTED]. [REDACTED]
 [REDACTED]
 [REDACTED].

15. All of these materials are probative and reliable. P-0431 was interviewed by the Prosecution [REDACTED] with all the formalities of rule 111 of the Rules [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]. Moreover, P-0431 will be in a position to explain and be cross-examined [REDACTED]
 [REDACTED]
 [REDACTED].

16. P-0431 will be asked to attest to the authenticity and the accuracy of [REDACTED]
 [REDACTED] associated material at the beginning of his testimony¹⁶ and to confirm his availability and willingness to be examined by the Parties, Legal Representatives if applicable, and the Chamber. He will be asked whether he consents to the introduction of his materials in to evidence. Therefore, the admission of [REDACTED] related materials under rule 68(3) is not prejudicial to or inconsistent with the rights of the Accused.

17. The Prosecution estimates that it will require around 50 minutes for the examination-in-chief of P-0431, including approximately thirty minutes for the formalities associated with the admission of [REDACTED] associated material. Should this application be rejected, the Prosecution requests that

¹⁶ ICC-01/12-01/18-789-AnxA, para.65.

the Chamber authorise the Prosecution to use two hours for P-0431's examination-in-chief.¹⁷

18. During its supplementary examination of P-0431, the Prosecution intends to elicit further focused, limited *viva voce* evidence of certain issues (see, paragraph 5 above¹⁸).

Conclusion

19. Granting the Request to introduce P-0431's [REDACTED] associated material as requested would enhance the expeditiousness of the proceedings by reducing the length of P-0431's examination-in-chief as set out above without being prejudicial to the rights of the Accused.

20. For the foregoing reasons, the Prosecution asks that the Chamber grant its Request.



Fatou Bensouda, Prosecutor

Dated this 13 October 2020

At The Hague, The Netherlands

¹⁷ [REDACTED]

¹⁸ [REDACTED]