



Original: English

No. ICC-01/12-01/18

Date: 8 March 2021

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 redacted version of the
Seventh Decision on in-court protective measures**

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

The Office of the Prosecutor

Fatou Bensouda
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Melinda Taylor
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Antoine Vey

Legal Representatives of Victims

Seydou Doumbia
Mayombo Kassongo
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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
Defence**

States Representatives

Amicus Curiae

REGISTRY

Registrar

Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

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 Articles 64(2), 64(6)(e) and (f), 64(7), 64(8)(b), 67(1) and 68(1) and (2) of the Rome Statute, Rule 87 of the Rules of Procedure and Evidence (the ‘Rules’) and Regulation 20 of the Regulations of the Court (the ‘Regulations’), issues the following ‘Seventh Decision on in-court protective measures’.

I. Procedural history

1. On 6 May 2020, the Chamber issued its ‘Directions on the conduct of proceedings’, instructing the Office of the Prosecutor (the ‘Prosecution’) to ‘file a motivated application seeking relevant in-court protective measures pursuant to Rule 87 of the Rules for all Prosecution Witnesses for whom it is reasonably foreseeable that protective measures are required no later than 40 days before the start of the presentation of evidence’.¹
2. On 1 September 2020, the Prosecution filed a third application seeking in-court protective measures for Prosecution witnesses, including *inter alia*, P-1086 (the ‘Application’).²
3. On 11 and 14 September 2020, the Legal Representatives of Victims (the ‘LRVs’) submitted their response to, *inter alia*, the Application, stating they do not object to the protective measures requested.³
4. On 18 September 2020, the Victims and Witnesses Unit (the ‘VWU’) filed its observations on, *inter alia*, the Application (the ‘VWU Observations’).⁴

¹ Directions on the conduct of proceedings, ICC-01/12-01/18-789-AnxA, paras 74-76. The deadline was subsequently extended on 22 July 2020. See Decision on the Prosecution’s witness order and variation of time limit for filing applications for in-court protective measures, 22 July 2020, ICC-01/12-01/18-968, para. 31.

² Prosecution’s third application for in-court protective measures for Block 2 and Block 3 witnesses and request for additional time to contact Witness MLI-OTP- P-0660, ICC-01/12-01/18-1022-Conf-Exp (a confidential redacted version was filed on 4 September 2020, ICC-01/12-01/18-1022-Conf-Red, and a public redacted version was filed on 2 October 2020, ICC-01/12-01/18-1022-Red2).

³ Email from the LRVs to TC X Communications, 11 September 2020, at 14:31; Email from the LRVs to TC X Communications, 14 September 2020, at 17:08.

⁴ Victims and Witnesses Unit’s Observations on the “Deuxième requête de l’Accusation sur le fondement de la règle 87 aux fins de mesures de protection des témoins du Bloc 2 et du Bloc 3”, on the

5. On 27 February 2021, the Prosecution informed the Chamber that, in consultation with the Defence, it will call, among other witnesses, P-1086 to testify in March 2021.⁵
6. The Defence did not respond to the Application.

II. Submissions and analysis

7. This is the Chamber's seventh decision on in-court protective measures for P-1086, who as noted above, is scheduled to testify in March 2021.
8. The Chamber recalls its findings in previous decisions that have dealt with in-court protective measures in the course of the trial.⁶
9. The Prosecution seeks in-court protective measures for P-1086 in the form of pseudonym, face and voice distortion and use of private/closed sessions. It submits that P-1086 is a fact/overview witness [REDACTED].⁷ The Prosecution states that P-1086 [REDACTED]. The Prosecution notes that [REDACTED]. The Prosecution submits 'it would be expected that this view of the armed groups

"Prosecution's third application for in court protective measures for Block 2 and Block 3 witnesses and request for additional time to contact Witness MLI-OTP- P-0660" and on the "Prosecution's application for in-court protective measures for MLI-OTP-P-0660", 18 September 2020, ICC-01/12-01/18-1052-Conf-Exp (confidential *ex parte*, available only to the Registry and the Prosecution; a confidential redacted version was filed on the same date, ICC-01/12-01/18-1052-Conf-Red).

⁵ Email from the Prosecution on 27 February 2021 at 17:13. *See also*, e-mail from Trial Chamber X Communications on 1 March 2021 at 13:44 authorising the proposed change in the witnesses scheduled to testify in March 2021.

⁶ Sixth Decision on in-court protective measures, 24 February 2021, ICC-01/12-01/18-1318-Conf-Exp (a confidential redacted version, ICC-01/12-01/18-1318-Conf-Red, and a public redacted version, ICC-01/12-01/18-1318-Red2, were filed on that same date); Fifth Decision on in-court protective measures, 3 February 2021, ICC-01/12-01/18-1280-Conf-Exp (a confidential redacted version, ICC-01/12-01/18-1280-Conf-Red, and a public redacted version, ICC-01/12-01/18-1280-Red2, were filed on that same date); Corrigendum Fourth Decision on in-court protective measures for witnesses, 26 January 2021, ICC-01/12-01/18-1266-Conf-Exp-Corr (a confidential redacted version, ICC-01/12-01/18-1266-Conf-Red-Corr, and a public redacted version, ICC-01/12-01/18-1266-Red2-Corr, were filed on that same date); Third Decision on in-court protective measures for witnesses, 19 October 2020, ICC-01/12-01/18-1113-Conf-Exp (a confidential redacted version was filed that same date, ICC-01/12-01/18-1113-Conf-Red and a public redacted version was filed on 5 January 2021, ICC-01/12-01/18-1113-Red2); Second Decision on in-court protective measures for witnesses, 24 September 2020, ICC-01/12-01/18-1067-Conf-Exp (a confidential redacted version was filed on that same date, ICC-01/12-01/18-1067-Conf-Red, and a public redacted version was filed on 5 January 2021, ICC-01/12-01/18-1067-Red2); First decision on in-court protective measures, 31 August 2020, ICC-01/12-01/18-1019-Conf-Exp (a confidential redacted version was filed on that same date, ICC-01/12-01/18-1019-Conf-Red, and a public redacted version was filed on 5 January 2021, ICC-01/12-01/18-1019-Red2).

⁷ Application, ICC-01/12-01/18-1022-Conf-Exp, paras 20-21, 29.

would only be strengthened were he to testify publicly in favour of the Prosecution’.⁸

10. The Chamber notes the Defence does not oppose the protective measures sought. It also notes that the VWU [REDACTED]. The VWU is thus supportive of the in-court protective measures ‘as means of managing the risks to this witness’.⁹
11. The Chamber is satisfied that an objectively justifiable risk for P-1086 has been demonstrated. In particular, the Chamber notes that the witness [REDACTED]. Having regard to [REDACTED],¹⁰ the Chamber considers that P-1086 would face a significant and impermissible risk to his safety should his identity, and consequently his cooperation with the Court, become known to the public. Accordingly, the Chamber grants P-1086 in-court protective measures in the form of the use of a pseudonym, facial and voice distortion, as well as use of private sessions and/or closed sessions.
12. The Chamber reminds the parties and participants to fully comply with the Chamber’s recent directions on the use of private and/or closed sessions.¹¹

⁸ Application, ICC-01/12-01/18-1022-Conf-Exp, para. 28.

⁹ VWU Observations, ICC-01/12-01/18-1052-Conf-Exp, paras 18, 20.

¹⁰ [REDACTED].

¹¹ Fourth decision on matters related to the conduct of proceedings, 26 January 2021, ICC-01/12-01/18-1265. See also e-mail from Trial Chamber X Communications on 2 March 2021 at 16:18.

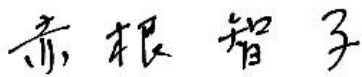
FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

GRANTS the request for in-court protective measures with respect to P-1086.

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 8 March 2021

At The Hague, The Netherlands