

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

No.: **ICC-01/12-01/18**

Date: **1 April 2021**

THE PRESIDENCY

Before:
Judge Piotr Hofmański, President
Judge Luz del Carmen Ibáñez Carranza, First Vice-President
Judge Antoine Kesia-Mbe Mindua, Second Vice-President

SITUATION IN THE REPUBLIC OF MALI

IN THE CASE OF
THE PROSECUTOR v. AL HASSAN AG ABDOL AZIZ AG MOHAMED AG
MAHMOUD

Confidential with Confidential Annex

Decision replacing a judge in the Appeals Chamber

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

The Office of the Prosecutor

Fatou Bensouda
James Steward

Counsel for the Defence

Melinda Taylor
Kirsty Sutherland

Legal Representatives of the Victims

Seydou Doumbia
Mayombo Kassongo
Fidel Luvengika Nsita

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**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
Appeals Chamber**

THE PRESIDENCY of the International Criminal Court notes that on 12 March 2021, the Defence for Mr Al Hassan filed the 'Defence Appeal of "Decision on Application for Notice of Possibility of Variation of Legal Characterisation Pursuant to Regulation 55(2) of the Regulations of the Court" (ICC-01/12-01/18-1211-Conf)' in the case of *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud* (the '*Al Hassan case*').¹

On 18 March 2021, Judge Marc Perrin de Brichambaut was, in accordance with article 39(1) of the Rome Statute of the International Criminal Court (the 'Statute'), assigned to the Appeals Division.²

On 18 March 2021, Judge Perrin de Brichambaut filed a request before the Presidency pursuant to article 41(1) of the Statute and rule 33(1) of the Rules of Procedure and Evidence (the 'Rules'), wherein he requested to be excused from his function as a judge of the Appeals Chamber for the purposes of all pending and future appeals in the *Al Hassan* case, to the extent that these appeals relate to the criminal proceedings against Mr Al Hassan (the 'Request for Excusal').

The Presidency notes article 41(1) of the Statute whereby '[t]he Presidency may, at the request of a judge, excuse that judge from the exercise of a function under this Statute'.

On 25 March 2021, the Presidency granted the Request for Excusal (Annex I).

The Presidency notes the composition of the Appeals Chamber as set out in article 39(2)(b)(i) of the Statute, pursuant to which the Appeals Chamber shall be composed of all of the judges of the Appeals Division which in turn is composed of the President and four other judges, by virtue of article 39(1) of the Statute. It is further noted that rule 38 of the Rules provides for the replacement of judges for objective and justified reasons, including accepted excuse, and that pursuant to regulation 15 of the Regulations, the Presidency is responsible for the replacement of judges.

Noting the availability and the current and anticipated workload of the judges of the Court, the Presidency hereby decides to temporarily attach Judge Rosario Salvatore Aitala, currently assigned to the Pre-Trial Division, to the Appeals Chamber for the purpose of hearing appeals

¹ ICC-01/12-01/18-1369-Conf.

² Presidency, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Decision assigning judges to divisions and recomposing Chambers, 18 March 2021, ICC-01/12-01/18-1385, p. 4.

in the *Al Hassan* case, to the extent that such appeals relate to the criminal proceedings against Mr Al Hassan.

Accordingly, the Appeals Chamber shall be composed as follows for any such appeals:

Judge Luz del Carmen Ibáñez Carranza, Presiding Judge

Judge Piotr Hofmański

Judge Solomy Balungi Bossa

Judge Rosario Salvatore Aitala

Judge Gocha Lordkipanidze

The Presidency orders the Registrar to file and notify this decision to the relevant parties and participants in the case.

Done in both English and French, the English version being authoritative.

A handwritten signature in black ink, appearing to read 'Hofmański', with a large, stylized flourish extending from the end.

Judge Piotr Hofmański
President

Dated this 1 April 2021

At The Hague, The Netherlands