



Original: English

No. ICC-01/12-01/18

Date: 16 August 2021

Date of original: 22 October 2020

TRIAL CHAMBER X

Before:

**Judge Antoine Kesia-Mbe Mindua, Presiding Judge
Judge Tomoko Akane, Judge
Judge Kimberly Prost, Judge**

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

**Decision on the Defence request for reconsideration, or in the alternative, leave
to appeal**

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

The Office of the Prosecutor

Fatou Bensouda
James Stewart

Counsel for the Defence

Melinda Taylor
Kirsty Sutherland

Legal Representatives of Victims

Seydou Doumbia
Mayombo Kassongo
Fidel Luvengika Nsita

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

Detention Section

**Victims Participation and Reparations
Section**

Other

Trial Chamber X (the ‘Chamber’) 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 64 of the Rome Statute (the ‘Statute’), issues the following ‘Decision on the Defence request for reconsideration, or in the alternative, leave to appeal’.

1. On 19 October 2020, the Defence filed a request for reconsideration, or in the alternative, leave to appeal the ‘Trial Chamber’s decision to deny the Defence request for information’ on the roles of a staff member (the ‘Legal Officer’ and the ‘Request’).¹
2. The Chamber notes that this Request follows a series of email communications triggered by the Defence as regards the role of the Legal Officer, then working in Chambers.²
3. After the Defence sought ‘clarification’, the Chamber informed the Defence that the Legal Officer had joined the *Al Hassan* team for a period of one month, having previously worked in a different capacity in the *Al Mahdi* case.³ The Defence then in a further email communication, and referring in general to Mr Al Hassan’s rights under Article 67 of the Statute, requested ‘the Chamber to provide it with all available information (to the extent possible)’ in relation to the Legal Officer’s former and current roles.⁴
4. On 12 October 2020, the Chamber reiterated its email of 6 October 2020 and stated that it ‘does not consider that this issue affects the rights of the Defence’ and therefore ‘it is unnecessary to provide to the Defence the information requested in its e-mail dated 9 October 2020’.⁵

¹ Request for reconsideration, or in the alternative, leave to appeal the Trial Chamber’s decision to deny the Defence request for information on Ms [REDACTED]’s roles, ICC-01/12-01/18-1114-Conf (with confidential annex ICC-01/12-01/18-1114-Conf-Anx). On that same day, the Office of the Prosecutor (the ‘Prosecution’) informed they will not file a response to the Request (email from the Prosecution to the Chamber at 19:47).

² See email exchange at ICC-01/12-01/18-1114-Conf-Anx.

³ See email exchange at ICC-01/12-01/18-1114-Conf-Anx.

⁴ See email exchange at ICC-01/12-01/18-1114-Conf-Anx. The Defence requested, *inter alia*, the Legal Officer’s formal title, role, terms of reference, contacts at the Trust Fund for Victims, as well as the role, advice or interactions with the Chamber and/or specific judges in the present case.

⁵ See email from the Chamber to the Defence, ICC-01/12-01/18-1114-Conf-Anx.

5. It appears from the Defence's Request that this last e-mail communication of the Chamber is, in the Defence's view, a decision capable of being subject to interlocutory appeal pursuant to Article 82(1)(d) of the Statute.⁶ The Defence also submits that this e-mail is a 'decision' that constitutes a clear error of reasoning that would lead to an injustice.⁷
6. The Chamber considers that the aforesaid email communication is not a 'decision' which can be subject to an appeal. Neither is it a 'decision' that can be the subject of a request for reconsideration.
7. The Chamber finds that it does not fall under the Defence's prerogatives to scrutinise or evaluate the internal management of human resources within Chambers. Thus, the aforesaid email of the Chamber cannot be regarded as a judicial decision having any impact on the current judicial proceedings against Mr Al Hassan. Accordingly, the relief requested by the Defence plainly falls outside the ambit of the Defence's prerogatives, particularly as regards fair trial rights of the accused under Article 67 of the Statute.
8. The Chamber reiterates in the strongest possible terms that repeating requests does not make them stronger, particularly when these are devoid of any legal basis. In fact, such repetitive and vexatious pleadings interfere with the expeditious administration of justice and may even be considered an abuse of process.⁸

⁶ Request, ICC-01/12-01/18-1114-Conf, para. 38.

⁷ Request, ICC-01/12-01/18-1114-Conf, paras 35-36.

⁸ See Presidency, *The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman*, Decision on the 'Requête en vertu des Articles 38-3-a, 43-2 et 115-b' dated 25 September 2020 (ICC-02/05-01/20-165), 12 October 2020, ICC-02/05-01/20-180, para. 6.

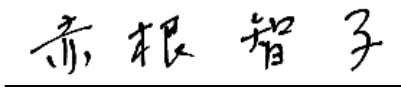
FOR THESE REASONS, THE CHAMBER HEREBY

DISMISSES the Request *in limine*.

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 22 October 2020

At The Hague, The Netherlands