

Annex I

Internal memorandum
Memorandum interne

To À	Judge Rosario Salvatore Aitala Judge Reine Alapini-Gansou Judge Sergio Gerardo Ugalde Godínez	From De	Judge Tomoko Akane, President 
Date	10 July 2024	Through Via	
Ref.	2024/PRES/00122-04	Copies	
Subject Objet	Withdrawal of request for excusal dated 19 June 2024		

1. I recall that on 19 June 2024, I made a request to be excused from Trial Chamber X for the remainder of the case of *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud* (the 'Al Hassan case'), in accordance with article 41(1) of the Statute and rule 33 of the Rules of Procedure and Evidence (the 'Rules'). This request, which was to become effective only as of the delivery of the Trial Judgment and only if relevant in view of its content, was made on the basis of excessive workload (the 'Request for Excusal').¹
2. On 26 June 2024, Trial Chamber X filed its Trial Judgment in which Mr Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud was convicted, by majority, under eight counts of crimes against humanity and war crimes,² which included three separate and partly dissenting opinions, filed on 26 June 2024³ and 28 June 2024.⁴
3. On 28 June 2024, an *ad hoc* Presidency, composed of Judge Rosario Salvatore Aitala, Judge Reine Alapini-Gansou and Judge Sergio Gerardo Ugalde Godínez,

¹ Presidency, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, [Request for excusal pursuant to article 41\(1\) of the Statute and rule 33 of the Rules of Procedure and Evidence](#), 28 June 2024, ICC-01/12-01/18-2596-Anx1, para. 3.

² Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, [Trial Judgment](#), 26 June 2024, ICC-01/12-01/18-2594-Red, para. 1785.

³ Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, [Separate and Partly Dissenting Opinion of Judge Tomoko Akane](#), 26 June 2024, ICC-01/12-01/18-2594-OPI; Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, [Separate and Partly Dissenting Opinion of Judge Kimberly Prost](#), 26 June 2024, ICC-01/12-01/18-2594-OPI2.

⁴ Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, [Opinion individuelle et partiellement dissidente du Juge Antoine Kesia-Mbe Mindua](#), 28 June 2024, ICC-01/12-01/18-2594-OPI3.

granted my request for excusal and then proceeded with my replacement in Trial Chamber X.⁵ In this regard, I note that I was replaced by Judge Joanna Korner in Trial Chamber X.⁶

4. Following her placement in Trial Chamber X, Judge Korner informed the *ad hoc* Presidency of unavoidable prior commitments during August 2024 which would risk causing delays to the sentencing procedure in the *Al Hassan* case. The *ad hoc* Presidency brought this new information to my attention, in view of its relevance to the proper administration of the Court.
5. Accordingly, having given the matter close consideration, I am now of the view that Judge Korner's practical unavailability constitutes a sufficient basis for me to seek to propose to the *ad hoc* Presidency that I withdraw my Request for Excusal. Although my workload remains objectively excessive, my concern at the risk of possible delay to the *Al Hassan* case and the need to consider the best interests of the Court means that I stand ready to return to Trial Chamber X if the *ad hoc* Presidency considers it appropriate. Having issued the Trial Judgment, I consider that my knowledge and prior involvement leave me uniquely placed to assist in the timely resolution of the *Al Hassan* case.
6. Accordingly, for the consideration of the *ad hoc* Presidency, I seek to withdraw my Request for Excusal.
7. I note that rule 33(2) of the Rules provides for the confidentiality of matters concerning excusal. Please be advised that I do not object to the *ad hoc* Presidency making public this withdrawal or the reasons for any eventual decision it takes thereon.

⁵ Presidency, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, [Decision on your request of 19 June 2024 for excusal pursuant to article 41\(1\) of the Statute and rule 33 of the Rules of Procedure and Evidence](#), 28 June 2024, ICC-01/12-01/18-2596-Anx2, p. 1; Presidency, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, [Decision Replacing Judges in Trial Chamber X](#), 28 June 2024, ICC-01/12-01/18-2596, para. 3.

⁶ Presidency, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, [Decision Replacing Judges in Trial Chamber X](#), 28 June 2024, ICC-01/12-01/18-2596, paras 3, 13.