

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No. ICC-01/12-01/18

Date: 25 April 2024

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

**Decision on Defence request for information concerning the delivery of the trial
judgment**

To be notified in accordance with Regulation 31 of the *Regulations of the Court* to:**The Office of the Prosecutor**

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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 Article 74(4) and (5) of the Statute and paragraphs 87 and 88 of the Chambers Practice Manual, issues the following ‘Decision on Defence request for information concerning the delivery of the trial judgment’.

1. On 6 December 2023, the Chamber issued a scheduling order announcing that its judgment pursuant to Article 74 of the Statute (the ‘Trial Judgment’) would be delivered in a public hearing on 18 January 2024.¹
2. On 15 January 2024, the Chamber issued an order indicating that, in light of the health situation of Judge Mindua, it had ‘no option but to vacate the hearing previously scheduled’.² The Chamber indicated that it would convey updated information at the earliest opportunity.³
3. On 17 January 2024, the Single Judge informed the parties and participants by email that there was at that stage no prospect of delivering the Trial Judgment in January 2024.⁴ The email noted that the information was transmitted on a confidential basis to facilitate the planning of logistical arrangements and that further information would be provided once available.
4. On 13 February 2024, the parties and participants filed requests seeking information relating to the setting of a new date for the delivery of the Trial Judgment,⁵ following email communication with the Single Judge.⁶ The Single

¹ Order scheduling the delivery of the Trial Judgment, ICC-01/12-01/18-2476.

² Order vacating the hearing scheduled for the delivery of the Trial Judgment, ICC-01/12-01/18-2584.

³ ICC-01/12-01/18-2584, para. 2.

⁴ Email from the Single Judge, 17 January 2024, at 12:07pm.

⁵ The requests were filed by the Defence and LRVs jointly, and the Prosecution: Requête conjointe de la Défense et des représentants légaux des victimes quant à l’obtention d’information relativement à la date de prononcé du jugement, ICC-01/12-01/18-2586 (filed on 12 February 2024); Requête de l’Accusation aux fins d’information concernant la date de prononcé du jugement dans l’affaire Al Hassan, ICC-01/12-01/18-2587.

⁶ On 5 February 2024, in response to a request for an update from the Defence, the Single Judge sent an email to the parties and participants notably confirming that efforts were being made to obtain further information as to the situation with a view to informing the parties in a timely manner (email from the Single Judge, 5 February 2024, at 4:14 pm). The Single Judge noted that, at that juncture, it would facilitate matters if a request for information concerning the delivery date of the Trial Judgment was made by way of a formal filing either by Defence or jointly by the parties.

Judge issued a decision in response to these requests on 4 March 2024,⁷ notably indicating that, while best efforts had been made to obtain updated information, because of Judge Mindua's ongoing health situation and his resulting unavailability, the issuance of the Trial Judgment was unlikely to happen before the end of March 2024 and the Single Judge did not have a more precise time estimate for delivery.⁸ The decision noted that the Chamber would attempt to provide two weeks' notice before the delivery date, as had been requested, and that the Chamber remained committed to sharing any relevant information in its possession with the parties and participants at the earliest opportunity.⁹

5. On 13 March 2024, the Defence filed a request for further information.¹⁰ The Request, filed as urgent, asked the Chamber to

invite Judge Mindua to provide the parties and participants (on a confidential basis if necessary) the following information:

- a. The date on and from which Judge Mindua started to experience health issues that impacted his ability to participate in either the proceedings, the deliberations, or both;
- b. If and when these health issues and restrictions were communicated to either Judge Prost or Judge Akane, or otherwise to the Presidency;
- c. The extent to which the illness impacted Judge Mindua's ability to participate in deliberations;
- d. Whether the illness is of a temporary or permanent nature; and
- e. The likely prognosis¹¹

No responses were received to the Request.

6. On 2 April 2024, the Single Judge provided an update by email to the parties and participants regarding the delivery of Trial Judgement, communicating that Judge Mindua had returned to work from full time sick leave that day and that the Chamber was able to meet at the Court's premises.¹² The email stated that discussions were ongoing and that the Chamber would revert back as soon as possible with a further update.

⁷ Decision on two requests concerning the delivery of the Trial Judgment, ICC-01/12-01/18-2588.

⁸ ICC-01/12-01/18-2584, paras 4-5.

⁹ ICC-01/12-01/18-2584, para. 6.

¹⁰ Urgent Request for Further Information Concerning the Delayed Judgment, ICC-01/12-01/18-2590 (with public Annex A) (the 'Request').

¹¹ Request, ICC-01/12-01/18-2590, para. 30.

¹² Email from the Single Judge, 2 April 2024, at 2:16pm.

7. On 15 April 2024, the Chamber issued a further order scheduling the delivery of the Trial Judgment for 26 June 2024, having regard to Article 74(5) of the Statute, and considering Judge Mindua's medical situation and in particular his progressive return on a part-time basis.¹³
8. The Chamber provides the following relevant information in response to the Defence Request and pursuant to the requirement in the Chambers Practice Manual that any extension to the usual 10 month deadline for delivery of a trial judgment be limited to exceptional circumstances and explained in detail in a public decision.¹⁴
9. As of 11 December 2023, Judge Mindua was on official medical leave related to temporary health issues. Judges Akane and Prost were made aware of this on 2 January 2024, at which point Judge Mindua was expected to return to work on 10 January 2024. As noted above, Judge Mindua returned to work from official medical leave on 2 April 2024, on a reduced time basis.
10. It is for these exceptional and unexpected reasons that the delivery of the Trial Judgment in this case has been delayed beyond the 10 month deadline envisaged in the Chambers Practice Manual.¹⁵

¹³ Further order scheduling the delivery of the Trial Judgment, ICC-01/12-01/18-2591.

¹⁴ Chambers Practice Manual, 13 July 2023, paras 87-88.

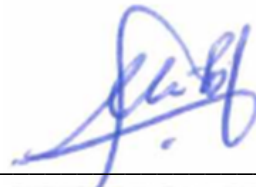
¹⁵ Pursuant to the Chambers Practice Manual, the deadline for the delivery of the Trial Judgment was 25 March 2024, being 10 months from the end of the closing statements.

THE CHAMBER HEREBY

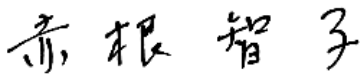
PROVIDES the above information; and

otherwise **DISMISSES** the Request.

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 25 April 2024

At The Hague, The Netherlands