

**Cour
Pénale
Internationale**



**International
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Court**

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TRIAL CHAMBER VIII

Before: Judge Raul C. Pangalangan, Single Judge

**SITUATION IN THE REPUBLIC OF MALI
IN THE CASE OF
*THE PROSECUTOR v. AHMAD AL FAQI AL MAHDI***

Public

**with Confidential, *EX PARTE*, Annexes A and B,
only available to the Prosecution and the Victims and Witnesses Section**

**Public redacted version of "Prosecution's request for in-court protective
measures for Prosecution Witness MLI-OTP-P-0431",
17 June 2016, ICC-01/12-01/15-105-Conf-Exp**

Source: Office of the Prosecutor

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

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I. Introduction

1. The Office of the Prosecutor (“Prosecution”) requests in-court protective measures, in the form of face and voice distortion and the use of a pseudonym for Prosecution Witness MLI-OTP-P-0431 (“P-0431”). This application is made pursuant to articles [REDACTED], 64(2) as well as 68(1) and (2) of the Rome Statute and rule 87 of the Rules of Procedure and Evidence.
2. The requested measures are sought (i) to enable the witness to give evidence without putting his own personal safety and security or that of his relatives at risk [REDACTED].
3. The requested measures appropriately balance the Accused’s right to a public hearing against the need to protect witnesses and others who may be placed at risk as a result of the activities of the Court.
4. The Prosecution has discussed this application with Counsel for the Accused, who have indicated that the Defence does not oppose the requested measures.
5. The Prosecution has also consulted with the Victims and Witnesses Section (VWS), which has indicated its agreement with the requested measures.

II. Confidentiality

6. The present Request and the attached annexes are filed confidentially and *ex parte* pursuant to regulation 23*bis* of the Regulations of the Court, because they (i) concern protective measures and the security of the witness [REDACTED].
7. The Prosecution will file a confidential redacted version of the present request as soon as practicable.

III. Submissions

8. The Prosecution requests face and voice distortion and the use of a pseudonym during the testimony of P-0431.

9. [REDACTED]
[REDACTED] [REDACTED] [REDACTED].¹

10. P-0431 [REDACTED] [REDACTED]. [REDACTED], [REDACTED]
[REDACTED] As explained *infra*, persons seen as collaborating with international organisations such as the ICC as well as their relatives are not just facing risks of interference or intimidation, but are exposed to a risk of being

¹ See Annex B, CV of P-0431, MLI-OTP-0031-0002.

subjected to violence or killed. Such risks are extended to persons [REDACTED]
[REDACTED] [REDACTED].

11. [REDACTED].

12. Conscious of the security risks, P-0431 specifically requested for in-court protective measures [REDACTED].

13. The Prosecution shares these concerns. The security situation [REDACTED]
[REDACTED] o the existence of an objectively justifiable risk to P-0431's safety and the effective investigation of the Prosecution in Mali.

14. As submitted in earlier Prosecution filings in this case,² the security situation in Mali is hazardous. Armed groups active in the region (including AQIM and Ansar Dine, the same armed groups implicated in this case) have publicly targeted members of the international community as well as local inhabitants suspected of cooperating with international institutions. There are numerous examples of deadly attacks against persons perpetrated by the armed groups in Mali and surroundings countries. Lists of major terror incidents in Mali during 2014, 2015 and 2016, attached hereto as Annex A, show that armed groups including AQIM and Ansar Dine continue to conduct attacks. In particular, in the

² See, e.g., ICC-01/12-01/15-89-Conf, paras. 29-31; ICC-01/12-01/15-59-Conf-Exp, paras. 17-19.

last six months to a year, armed groups have been responsible for attacks against several hotels and other businesses frequented by foreigners in Bamako, the capital of Mali, and other cities in the region,³ including a deadly November 2015 attack at the Bamako Radisson Blu hotel. The Prosecution also recalls that several ICRC staff members were recently kidnapped by Ansar Dine.⁴ Even in the last weeks, members of MINUSMA and other international organisations have been killed by the armed groups, including one affiliated with AQIM (*see* Annex A, list of incidents in 2016). In addition, two civilians were killed this week during an attack by jihadists in the Timbuktu region.⁵

15. Under these circumstances, the Prosecution submits that face and voice distortion and a pseudonym are essential to ensure the safety of P-0431 [REDACTED]. A pseudonym is necessary because P-0431 [REDACTED] [REDACTED]. The release of his name will make him easily traceable and will expose him or his family to risk of violence and killing. P-0431 will be equally exposed if his face is shown in public. The risk of P-0431's [REDACTED] is also real [REDACTED].

³ See for example the press articles cited in ICC-01/12-01/15-89-Conf, para. 30, n.14. The Prosecution also recalls the beheading in September 2014 of a Tuareg man accused of working with MINUSMA. See MLI-OTP-0020-0008 (press article published by *Sahara Media*, in the Arabic language, on 25 September 2014).

⁴ See Africanews, “3 Red Cross staff still missing days after their abduction in Mali”, 20 April 2016, at <http://www.africanews.com/2016/04/20/3-red-cross-staff-still-missing-days-after-their-abduction-in-mali/> ; Le Point, “Mali: trois humanitaires de la Croix-Rouge enlevés par des djihadistes”, 21 April 2016, at http://www.lepoint.fr/monde/mali-trois-humanitaires-de-la-croix-rouge-enlevés-par-des-djihadistes-21-04-2016-2033903_24.php. Ansar Dine is the group to which AL MAHDI belonged to at the time of his arrest, the same group that publicly announced in early 2015 its intention to target internationals: See Sahelien.com, “Mali: Le groupe Ansar Eddine envoie des tracts aux populations locales”, 7 janvier 2015, MLI-OTP-0022-0404

⁵ <http://maliactu.net/mali-deux-civils-tues-dans-une-attaque-dans-la-region-de-tombouctou-nord/>

16. The Prosecution has consulted with the VWS, which has indicated its agreement with the requested measures.
17. The Prosecution is also of the view that granting the requested protective measures will dispense the need for intrusive protection measures for this witness and his relatives after completion of his testimony.
18. Finally, the Prosecution stresses that there is no prejudice to the Defence, who knows the identity of P-0431 and whose ability to prepare for trial and to cross-examine the witness will not be affected.
19. As a matter of fact, the Defence was consulted regarding the present Request and had no objection to the requested measures.

IV. Relief requested

20. For the foregoing reasons, the Prosecution requests that the Chamber grants the present application and orders face and voice distortion and the use of a pseudonym for Prosecution Witness P-0431.



Fatou Bensouda, Prosecutor

Dated this 21st day of June, 2016

At The Hague, The Netherlands