

Annex 1

(Public)

Internal memorandum
Memorandum interne

To À	Judge Rosario Salvatore Aitala, First Vice-President Judge Reine Alapini-Gansou, Second Vice-President	From De	Judge Tomoko Akane, President
Date	19 June 2024	Through Via	
Ref.	2024/PRES/00122	Copies	
Subject Objet	Request for excusal pursuant to article 41(1) of the Statute and rule 33 of the Rules of Procedure and Evidence		

赤根 智子

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1. On 21 November 2019, the Presidency constituted Trial Chamber X, comprising Judge Mindua, Judge Prost and myself and referred to it the case of *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud* ('*Al Hassan case*').¹ On 11 March 2024, I was elected as President of the Court. Following my election as President of the Court, I became a member of the Appeals Division in accordance with article 39(1) of the Statute.
2. I note that on 15 April 2024, Trial Chamber X issued an order scheduling the date of delivery of the Trial Judgment in the *Al Hassan case* for 26 June 2024.²
3. By this present memorandum, I wish to request that, after Trial Chamber X has issued its Trial Judgment, if it is necessary to proceed to sentencing under article 76, that I be excused from sitting on Trial Chamber X for the remainder of 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'). Accordingly, this request becomes effective only as of the delivery of the Trial Judgment and only if relevant in view of its content. I make this request on the basis of excessive workload, noting the current workload in the *Al Hassan case*, combined with my heavy duties and responsibilities as President of the Court as well as the current and anticipated workload of the Appeals Chamber in which I also sit. Accordingly, I hereby make the present request, in the interests of the fair and efficient administration of justice. Further, in my view, it would not be inconsistent with the

¹ Presidency, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, [Decision constituting Trial Chamber X and referring to it the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud](#), 21 November 2019, ICC-01/12-01/18-501, p. 4.

² Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Further order scheduling the delivery of the Trial Judgment, 15 April 2024, ICC-01/12-01/18-2591, p. 4.

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Court's legal text for a judge to be replaced in a trial chamber following the handing down of the article 74 decision, although it would be for an *ad hoc* Presidency, of course, to consider and determine this question. In addition, I request to be excused from any functions of the Presidency in respect of this request for excusal to avoid any question of conflict of interest.

4. I note that rule 33(2) of the Rules provides for the confidentiality of this request. Please be advised that I do not object to the *ad hoc* Presidency making my request or the reasons for its eventual decision public although I would request that this should only occur after the delivery of the Trial Judgment.