

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

No.: **ICC-01/12-01/18**

Date: **7 October 2024**

THE APPEALS CHAMBER

Before: Judge Luz del Carmen Ibáñez Carranza, Presiding
Judge Solomy Balungi Bossa
Judge Gocha Lordkipanidze
Judge Miatta Maria Samba
Judge Erdenebalsuren Damdin

SITUATION IN THE REPUBLIC OF MALI

**IN THE CASE OF
THE PROSECUTOR v. AL HASSAN AG ABDOUL AZIZ AG MOHAMED AG
MAHMOUD**

Public

Defence Request for Extension of Page Limit for its Appeal Brief

Source: Defence for Mr Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud

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

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I. INTRODUCTION

1. The Defence for Mr Al Hassan Ag Abdoul Aziz respectfully requests the Appeals Chamber to grant a page limit extension from 100 pages to 250 pages, for its document in support of the appeal (“Appeal brief”) of the Trial Judgment due on 5 December 2024 (“Request”).¹
2. The Defence considers that there are exceptional circumstances which warrant the extension of page limit, namely to accommodate the comprehensive scope and range of arguments in the Defence’s anticipated Appeal brief, as foreshadowed in its Notice of Appeal (“Notice”).² This directly results from a Trial Judgment which is itself complex and lengthy, and which deals with novel legal and factual issues.
3. The Defence would not oppose an equivalent extension of page limit to be afforded to the Prosecution in any response brief.

II. APPLICABLE LAW

4. Regulation 58(3) of the Regulations of the Court provide that any appeal brief “shall not exceed 100 pages.”³
5. Regulation 37(2) provides that a Chamber may extend the page limit “in exceptional circumstances.” Appeals Chambers have indicated that such exceptional circumstances include the complexity of the case and by extension, the necessity for the proper presentation of the issues;⁴ the novelty of both the legal and factual issues raised by the case;⁵ the scope and range

¹ ICC-01/12-01/18-2647, para. 18.

² Filed 18 September 2024.

³ Regulation 58(3) of the Regulations of the Court.

⁴ *Lubanga*, Decision on the Prosecutor’s Motion for Extension of the Time and Page Limits, [ICC-01/04-01/06-177](#), para. 6; *Katanga*, Decision on the Urgent Defence Application for an Extension of the Page Limit, [ICC-01/04-01/07-3334](#), para. 7; *Gbagbo*, Decision on Mr Laurent Gbagbo’s request for an extension of page limit for his response to the Prosecutor’s appeal brief, [ICC-02/11-01/15-1313](#), para. 10; *Gbagbo*, Decision on Gbagbo’s Request for an Extension of the Page Limit, [ICC-02/11-01/11-481](#), para. 6.

⁵ *Lubanga*, Judgment on the Regulation 55 Appeals, [ICC-01/04-01/06-2205](#), para. 21; *Mbarushimana*, Decision on the Prosecution Request for an Extension of the Page Limit, [ICC-01/04-01/10-495](#), paras 3, 5; *Ngudjolo*, Decision on the Prosecution’s Urgent Request for an Extension of the Page Limit, [ICC-01/04-02/12-34](#), para. 5; *Bemba*, Decision on Mr Bemba’s request for an extension of time for the filing of his document in support of appeal, [ICC-01/05-01/08-3370](#), paras 6, 8; *Ongwen*, Decision on Defence request for a page limit extension for its appeal brief and order setting time limit for responses to the Prosecutor request for extension of time to file her response to the appeal brief, [ICC-02/04-01/15-1850](#), para. 14.

of potential arguments on appeal;⁶ and the number of questions identified as relevant to an appeal.⁷

6. The Appeals Chamber has previously granted an extension of page limit of an appeal brief to 250 pages.⁸ As such, the page limit extension as contained in this Request is not unprecedented.⁹

III. SUBMISSIONS

3.1 Length and complexity of Trial Judgment

7. The Appeals Chamber took note of the Defence's previous arguments regarding the complexity and length of the Trial Judgment, in its consideration to grant an extension of time for the filing of the parties' notices of appeal.¹⁰

8. The Defence reiterates that the Trial Judgment is lengthy and complex, and is a relevant consideration in whether to grant an extension of the page limit. The Judgment, including all separate opinions and annexes, total over 1000 pages with 5,730 footnotes, and contains substantive legal and factual findings in the footnotes. The trial record itself contains testimony from 107 witnesses,¹¹ approximately 13,200 pieces of formally submitted evidence, and approximately 13,000 pages of transcript. Mr Al Hassan has 50 convictions across all incidents and eight different counts.¹² The legal and factual complexity of the case is further reflected in the deliverance of a split Judgment with three separate and partially dissenting opinions.

9. On this basis, the Trial Judgment raises extensive and complex factual and legal issues which will be required to be carefully considered by the parties on appeal. The ability to adequately and meaningfully put forward such discussion within the Appeal brief, and not to prejudice the parties in doing so, warrants an extension of the page limit.

⁶ *Ntaganda*, Decision on Mr Ntaganda's request for an extension of the page and time limit for the filing of the appeal brief and related matters, [ICC-01/04-02/06-2415](#), para. 20.

⁷ *Lubanga*, Decision on the Prosecutor's application for an extension of page limit for his document in support of appeal, [ICC-01/04-01/06-2532](#), para. 6.

⁸ *Ongwen*, Decision on Defence request for a page limit extension for its appeal brief and order setting time limit for responses to the Prosecutor request for extension of time to file her response to the appeal brief, [ICC-02/04-01/15-1850](#), para. 15.

⁹ See further *Karadžić*, MICT-13-55-A, [Decision on a Motion For An Extension of a Word Limit](#), 8 September 2016, p. 3 (granting an extension of word limit of no more than 75,000 (approximately 300 pages)); *Šainović et al.*, IT-05-87-A, [Decision on Defence Motions For Extension of Word Limit](#), 8 September 2009, p. 5 (granting *Lukić* an extension of word limit of no more than 60,000 pages (approximately 240 pages)).

¹⁰ ICC-01/12-01/18-2606, para. 12.

¹¹ Trial Judgment, para. 33.

¹² Trial Judgment, annex 3.

3.2 Novelty of factual and legal issues, and scope and range of arguments

10. The Judgment further raises novel legal and factual issues, all of which will directly impact on the Defence's ability to properly present its appellate arguments within the current page limit.

11. This includes legal, factual and procedural errors which the Defence considers to exist throughout the Trial Judgment as a whole. The Notice comprises grounds of appeal relating to novel convictions for religious persecution and the passing of sentences without due process; as well as novel procedural and factual issues which are alleged to impact the validity of the Judgment itself. This includes the admission and reliance of torture-tainted evidence into the trial record, the impact of COVID-19 on the proceedings, and the existence of three separate and contradicting opinions within the Judgment.¹³ Such arguments also include fair trial issues faced by the Defence in the proceedings and which fall outside the scope of the Trial Judgment. This will require the Defence to cite other relevant evidence and procedural history, all of which will impact on available page limits.

12. This notwithstanding, the Defence also seeks to appeal other legal and factual issues, including that Mr Al Hassan was convicted on the basis of conduct that did not fulfil the requisite elements of crimes under the Rome Statute (including contextual elements) and that the Chamber erroneously attributed individual responsibility to Mr Al Hassan. As a result, the scope and range of the issues within each ground are wide-ranging.

13. The Defence will then be required to outline the legal and/or factual reasons in support of each ground of appeal, to refer to the relevant parts of the Judgment, and to outline in sufficient detail how the errors affect the appealed decision consistent with the requirements under regulation 58(2) of the Regulations.

14. The Defence is cognisant of ensuring clarity and focus of its arguments in its Appeal brief. However, in accordance with the current page limit, each ground in the Notice has been designated a maximum of 25 pages (including footnotes) to develop its arguments and to address all applicable sub-grounds. This calculation excludes any consideration for an introduction or conclusion to the Appeal brief. An extension of 150 pages will enable the Defence to attribute approximately 62 pages for each ground of appeal, which it considers sufficient in order to produce a considered and well-reasoned Appeal brief in conformity with applicable procedural requirements.

¹³ See paras 6-11 of the Notice.

15. The Notice sought to consolidate all relevant appealable issues into four grounds for clarity and ease. This notwithstanding, the number of grounds or sub-grounds identified as relevant to an appeal should not distract from its underlying complexity and breadth in determining whether exceptional circumstances to grant an extension of the page limit exist.¹⁴

16. Given these matters, there are exceptional circumstances which exist to permit the extension of the requisite page limit, namely to ensure that the Defence can present all of its arguments as anticipated by the Notice before the Appeals Chamber in a complete and considered manner for proper adjudication.

IV. **RELIEF SOUGHT**

3. For the reasons set out above, the Defence for Mr Al Hassan respectfully requests the Appeals Chamber to:

- **GRANT** a page limit extension from 100 pages to 250 pages for the Defence Appeal brief.



Melinda Taylor
Lead Counsel for Mr Al Hassan

Dated this 7th day of October 2024

At The Hague, The Netherlands

¹⁴ *Šainović et al.*, IT-05-87-A, [Decision on Defence Motions For Extension of Word Limit](#), 8 September 2009, p. 4.