



Original: English

No. ICC-01/12-01/18 A

Date: 17 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 document

**Decision on the “Defence Request for Extension of Page Limit for its Appeal
Brief”**

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

The Office of the Prosecutor

Mr Karim A. A. Khan, Prosecutor
Ms Helen Brady

Counsel for the Defence

Ms Melinda Taylor
Ms Felicity Gerry

Legal Representatives of Victims

Mr Seydou Doumbia
Mr Mayombo Kassongo
Mr Fidel Nsita Luvengika

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

The Appeals Chamber of the International Criminal Court,

In the appeals of Mr Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud and the Prosecutor against the decision of Trial Chamber X entitled “Trial Judgment” of 26 June 2024 (ICC-01/12-01/18-2594-Conf; public redacted version: ICC-01/12-01/18-2594-Red),

Having before it the “Defence Request for Extension of Page Limit for its Appeal Brief” of 7 October 2024 (ICC-01/12-01/18-2653),

Pursuant to regulations 58(3) and 37(2) of the Regulations of the Court,

Renders, the following

DECISION

1. The page limit for the appeal brief of the Defence is extended by 80 pages.
2. The page limit for the Prosecutor’s response to the Defence’s appeal brief is extended by 80 pages.

REASONS

I. PROCEDURAL HISTORY

1. On 26 June 2024, Trial Chamber X (hereinafter: “Trial Chamber”) rendered its decision entitled “Trial Judgment” (hereinafter: “Conviction Decision”), in which Mr Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud (hereinafter: “Mr Al Hassan”) was convicted on numerous counts of crimes against humanity and war crimes.¹

2. On 12 July 2024, following requests from the Defence and the Prosecutor,² the Appeals Chamber granted an extension of time until 4 September 2024 for the filing of the Defence’s

¹ [Trial Judgment](#), ICC-01/12-01/18-2594-Red (confidential version filed on the same day, ICC-01/12-01/18-2594-Conf).

² [Request for Extension of Time to File the Notice of Appeal](#), 4 July 2024, ICC-01/12-01/18-2597; [Prosecution response to the Defence Request for Extension of Time to File the Notice of Appeal](#), 5 July 2024, ICC-01/12-01/18-2598.

notice of appeal against the Conviction Decision as well as for the Prosecution's notice of appeal against the Conviction Decision, should he wish to file it.³

3. On 26 July 2024, following joint requests from the Defence and the Prosecutor,⁴ the Appeals Chamber granted a further extension of time to 18 September 2024 for the filing of a notice of appeal against the Conviction Decision by the Defence and the Prosecutor.⁵

4. On 11 September 2024, following a request from the Prosecutor,⁶ the Appeals Chamber found it appropriate to extend the time limit until 5 December 2024 for the filing of any appeal brief against the Conviction Decision by the Defence and the Prosecutor.⁷

5. On 18 September, the Defence and the Prosecutor filed their respective notices of appeal against the Conviction Decision.⁸

6. On 7 October 2024, the Defence filed a request seeking an extension of the page limit for its appeal brief (hereinafter: "Request").⁹

7. On 9 October 2024, the Prosecutor filed his response to the Request (hereinafter: "Prosecutor's Response").¹⁰

II. MERITS

A. Summary of the submissions

8. The Defence requests, pursuant to regulation 37(2) of the Regulations of the Court (hereinafter: "Regulations"), that the Appeals Chamber extend the page limit for its appeal

³ [Decision on the Defence's "Request for Extension of Time to File the Notice of Appeal" against the decision of Trial Chamber X entitled "Trial Judgment"](#), ICC-01/12-01/18-2606, paras 14-15.

⁴ [Joint Defence and OTP Request for Limited Extension of the Deadline for the Notices of Appeal](#), 25 July 2024, ICC-01/12-01/18-2623; [Prosecution notice concerning "Joint Defence and OTP Request for Limited Extension of the Deadline for the Notices of Appeal"](#), 25 July 2024, ICC-01/12-01/18-2625.

⁵ [Decision on the "Joint Defence and OTP Request for Limited Extension of the Deadline for the Notices of Appeal"](#), ICC-01/12-01/18-2628, p. 3, paras 14-15.

⁶ [Prosecution Request for Extension of Time to File Appeal Brief](#), 2 September 2024, ICC-01/12-01/18-2643. See also [Defence Response to "Prosecution Request for Extension of Time to File Appeal Brief, ICC-01/12-01/18-2643"](#), 6 September 2024, ICC-01/12-01/18-2646.

⁷ [Decision on the requests for an extension of time to file appeal briefs against the decision of Trial Chamber X entitled "Trial Judgment"](#), ICC-01/12-01/18-2647, paras 17-18.

⁸ [Defence Notice of Appeal against the Trial Judgment](#), ICC-01/12-01/18-2648; [Prosecution notice of appeal](#), ICC-01/12-01/18-2649.

⁹ [Defence Request for Extension of Page Limit for its Appeal Brief](#), ICC-01/12-01/18-2653.

¹⁰ [Prosecution Response to the Defence Request for Extension of Page Limit for its Appeal Brief](#), ICC-01/12-01/18-2655.

brief from 100 to 250 pages, on the basis that exceptional circumstances exist.¹¹ In particular, the Defence argues that an extension of the page limit is warranted, due to: (i) the length and the complexity of the Conviction Decision;¹² and (ii) the “novel legal and factual issues” raised in the Conviction Decision which directly impact the Defence’s ability to present its arguments “in a complete and considered manner for proper adjudication”.¹³ Lastly, the Defence submits that it does not oppose an “equivalent” extension of page limit to be granted to the Prosecutor for his response to its appeal brief.¹⁴

9. The Prosecutor opposes the Request on the basis that there are no exceptional circumstances justifying such a significant extension of pages that “amounts to two and a half times the pages allotted for appeal briefs under regulation 58(5) of the Regulations”.¹⁵

B. Determination by the Appeals Chamber

10. Regulation 58(3) of the Regulations provides that “the appeal brief shall not exceed 100 pages”. Pursuant to regulation 37(2) of the Regulations, the Appeals Chamber may, at the request of a participant, extend the page limit “in exceptional circumstances”.

11. At the outset, the Appeals Chamber notes the Defence’s argument that the requested page limit extension is “not unprecedented” as the Appeals Chamber has previously granted an extension of page limit of an appeal brief to 250 pages.¹⁶ The Appeals Chamber underlines that its determination under regulation 37(2) of the Regulations is made on a case-by-case basis, depending on its assessment of the specific circumstances of each case. As such, while its previous decisions under this provision may serve to inform its decision in a specific case, the Appeals Chamber is not bound by them.

12. In the present case, the Appeals Chamber notes the Defence’s submission that an extension of 150 pages would enable it to produce “a considered and well-reasoned [a]ppeal brief in conformity with applicable procedural requirements”.¹⁷ In particular, the Appeals Chamber takes note of the Defence’s contentions concerning the complex and lengthy nature

¹¹ [Request](#), paras 1-2, 5, 14, 16-17.

¹² [Request](#), paras 8-9.

¹³ [Request](#), paras 10-15, 16.

¹⁴ [Request](#), para. 3.

¹⁵ [Prosecutor’s Response](#), paras 1, 3, 6.

¹⁶ [Request](#), para. 6, referring to *The Prosecutor v. Dominic Ongwen*, [Decision on Defence request for a page 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](#), 8 June 2021, ICC-02/04-01/15-1850.

¹⁷ [Request](#), paras 2, 13-14, 16

of the Conviction Decision, including separate and partially dissenting opinions,¹⁸ and the wide-ranging scope of novel legal and factual issues in each ground of the Defence's anticipated appeal brief, as well as its obligation to submit an appeal brief in accordance with regulation 58(2) of the Regulations, setting out, *inter alia*, "the legal and factual reasons in support of each ground of appeal".¹⁹

13. The Appeals Chamber notes that the Prosecutor opposes the Request, considering that an appeal brief of 250 pages as requested by the Defence far exceeds the 100 pages ordinarily permitted for an appeal brief pursuant to regulation 58(5) of the Regulations, as well as the number of pages of the parties' closing briefs submitted at trial.²⁰

14. Taking into account the aforementioned considerations, the Appeals Chamber is persuaded that the Defence has demonstrated the existence of "exceptional circumstances" within the meaning of regulation 37(2) of the Regulations. With respect to the pages of extension sought, the Appeals Chamber considers that a page extension of 150 pages is excessive, and finds that an extension of 80 pages, to a total of 180 pages, is appropriate in the specific circumstances of the case.

15. Pursuant to regulations 37(2) and 59(2) of the Regulations, the Appeals Chamber finds it appropriate to grant the same page extension of 80 pages to the Prosecutor for his response to the Defence's appeal brief.

Done in both English and French, the English version being authoritative.



Judge Luz del Carmen Ibáñez Carranza
Presiding

Dated this 17th day of October 2024

At The Hague, The Netherlands

¹⁸ [Request](#), paras 2, 8-9.

¹⁹ [Request](#), paras 2, 10-14.

²⁰ [Prosecutor's Response](#), para. 3, fn 4 ("The Prosecution closing brief was 224 pages (excluding the cover and notification page): ICC-01/12-01/18-2475-Conf. The Defence closing brief was 231 pages (excluding the cover and notification pages): ICC-01/18-2485-Conf-Corr2").