

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

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

Date: **21 March 2025**

TRIAL CHAMBER X

Before: Judge Kimberly Prost, Presiding Judge
Judge María del Socorro Flores Liera
Judge Keebong Paek

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 the Legal Representative of Victim's and Registry's requests for clarification

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

☒ **The Office of the Prosecutor**

☒ **Counsel for the Defence**

Al Hassan Defence

☒ **Legal Representatives of the Victims**

Al Hassan Victims

☐ **Legal Representatives of the Applicants**

☒ **Unrepresented Victims**

☐ **Unrepresented Applicants
(Participation/Reparation)**

☒ **The Office of Public Counsel for
Victims**

☐ **The Office of Public Counsel for the
Defence**

☒ **States' Representatives**
Republic of Mali

☒ **Trust Fund for Victims**

☒ **Amicus Curiae**

Registrar

Mr Osvaldo Zavala Giler

☐ **Counsel Support Section**

☐ **Victims and Witnesses Unit**

☐ **Detention Section**

☒ **Victims Participation and Reparations
Section**

☒ **Other**
Public Information and Outreach Section

Trial Chamber X (the ‘Chamber’) 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 75 of the Rome Statute, issues the following ‘Decision on the Legal Representative of Victim’s and the Registry’s requests for clarification’.

I. PROCEDURAL HISTORY

1. On 26 June 2024, the Chamber, in a different composition, by majority, convicted Mr Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud (hereinafter: ‘Mr Al Hassan’) for the commission of three counts of crimes against humanity and five counts of war crimes.¹
2. On 20 November 2024, the Chamber, in a different composition, sentenced Mr Al Hassan to a joint sentence of 10 years of imprisonment.²
3. On 13 December 2024, the Chamber issued its ‘Order for Submissions on Reparations’ (the ‘Order’) in which it noted that ‘outside of the crime of persecution, there are 49 direct victims in this case’.³ The Chamber further noted that ‘since these victims represent the direct victims of all but one of the crimes for which Mr Al Hassan was convicted, every effort should be made to ensure their views are duly considered during the reparations proceedings’.⁴
4. On 13 February 2025, the Legal Representative of Victims (the ‘LRV’), submitted the ‘*Demande de clarification du « Order for Submissions on Reparations »*’ (the ‘LRV’s Request’).⁵
5. On 21 February 2025, the Registry submitted the ‘Registry submissions on implementation of Trial Chamber X’s “Order for Submissions on Reparations”’ (the ‘Registry’s Request’).⁶

¹ Trial Judgment, [ICC-01/12-01/18-2594-Red](#), pp 818-821.

² Sentencing Decision, [ICC-01/12-01/18-2662](#), para. 134.

³ Order for submissions on reparations, [ICC-01/12-01/18-2666](#), para. 4. See Sentencing Decision, [ICC-01/12-01/18-2662](#), paras 42, 59.

⁴ Order, [ICC-01/12-01/18-2666](#), para. 4. The Chamber therefore instructed the Legal Representative of Victims, the Office of the Prosecutor and the Registry to provide a joint report to the Chamber advising: ‘(i) whether these victims, or in the case of victims who may be deceased, their families, are identifiable and can be contacted; (ii) whether any of these victims are currently represented by the LRV; and, (iii) if the victims are not represented by the LRV, whether they have now chosen to be’.

⁵ *Demande de clarification du « Order for Submissions on Reparations »*, [ICC-01/12-01/18-2680](#).

⁶ Registry submissions on implementation of Trial Chamber X’s “Order for Submissions on Reparations” (ICC-01/12-01/18-2666), [ICC-01/12-01/18-2684](#) with confidential Annex, ICC-01/12-01/18-2684-Conf-Anx.

6. On 4 March 2025, the LRV submitted its Response to the Registry Request (the 'LRV's Response').⁷
7. On 5 March 2025, the Defence for Mr Al Hassan (the 'Defence') submitted its response to the Registry Request (the 'Defence's Response').⁸
8. Below, the Chamber addresses the requests for clarification.

I. ANALYSIS

A. Clarification regarding the number of direct victims

9. The LRV seeks clarification in relation to whether the Chamber's statement in the Order that 'outside of the crime of persecution, there are 49 direct victims in this case' was an assessment of the number of direct victims in the case outside of the crime of persecution.⁹ The LRV seeks reconsideration in the event that the Chamber has determined that the total number of direct victims of crimes besides persecution amounts to 49 persons.¹⁰
10. Similarly, the Registry seeks confirmation that the Chamber accepts that there may be more than 49 direct victims of the crimes for which Mr Al Hassan was convicted other than persecution.¹¹ The Registry notes in this respect that 'a number of other victim participants and new applicants report to have suffered direct harm as a result of these crimes' other than, or in addition to, persecution'.¹²
11. The Chamber notes that in the Order, it identified, based on the Trial Judgment¹³ and Sentencing Decision,¹⁴ 49 victims clearly established as direct victims of the crimes for which Mr Al Hassan was convicted, other than the crime of persecution.¹⁵ The Chamber does not, however, prohibit the parties and participants from making submissions on the

⁷ Réponse des Représentants légaux des victimes aux « Registry submissions on implementation of Trial Chamber X's "Order for Submissions on Reparations" (ICC-01/12-01/18-2666) » (ICC-01/12-01/18-2684), [ICC-01/12-01/18-2686](#) (the 'LRV's Response').

⁸ Defence Response to the Request for Guidance by the Victims Participation and Reparations Section of the Registry (ICC-01/12-01/18-2684), [ICC-01/12-01/18-2687](#).

⁹ LRV's Request, [ICC-01/12-01/18-2680](#), para. 6.

¹⁰ LRV's Request, [ICC-01/12-01/18-2680](#), para. 7.

¹¹ Registry's Request, [ICC-01/12-01/18-2684](#), para. 20.

¹² Registry's Request, [ICC-01/12-01/18-2684](#), para. 19.

¹³ Annex 3 to the Trial Judgment - Updated self-contained set of charges and convictions, 26 June 2024, [ICC-01/12-01/18-2594-Anx3](#).

¹⁴ Sentencing Decision, [ICC-01/12-01/18-2662](#), paras 42, 59.

¹⁵ Order, [ICC-01/12-01/18-2666](#), para. 4.

number of direct victims of all crimes, should they choose to do so. The Chamber will make its final determination on the number of victims in the Reparations Order. The Chamber reminds the parties and participants that the scope of the conviction cannot be revisited at the reparations stage and encourages the parties and participants to carefully consider the scope of Mr Al Hassan's conviction as set out in the Judgment and Sentencing Decision when making their submissions. The Chamber further notes that the parties should clearly explain the legal basis for the proposed number of direct victims of the crimes for which Mr Al Hassan was convicted.

12. The Chamber further notes that, should any of the 49 victims mentioned above choose to be represented by the LRV, it is essential that their views on reparations be clearly identified in the LRV's submissions. Should the LRV require more space to facilitate this, it may request leave from the Chamber.
13. The Chamber considers that, by clarifying that it will consider the parties and participants' submissions on the direct victims of the crimes other than persecution, the LRV's request for reconsideration is moot.
14. The Chamber does, however, wish to address the LRV's submission, which appears to suggest that establishing an eligibility criteria is the only way in which victims may be identified for the purposes of reparations.¹⁶ On this point, the Chamber notes that, in relation to the identification of victims in a reparations order, the Chamber must either 'identify the victims eligible to benefit from the awards for reparations **or** set out the criteria of eligibility based on the link between the harm suffered by the victims and the crimes for which the person was convicted' (emphasis added).¹⁷

B. Clarification regarding the geographical scope of the conviction

15. The Registry seeks the Chamber's clarification as to whether the neighbourhood of Kabara falls within the geographical scope of the case.¹⁸ The Registry notes that Kabara is not

¹⁶ LRV's Request, [ICC-01/12-01/18-2680](#), paras 12, 18.

¹⁷ Trial Chamber IX, *The Prosecutor v. Dominic Ongwen*, Reparations Order, 28 February 2024, [ICC-02/04-01/15-2074](#), para. 89; Trial Chamber VII, *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, Reparations Order, 17 August 2017, [ICC-01/12-01/15-236](#), para. 38; Trial Chamber II, *The Prosecutor v. Germain Katanga*, Order for Reparations pursuant to Article 75 of the Statute, 24 March 2017, [ICC-01/04-01/07-3728-ENG](#), para. 31; Appeals Chamber, *The Prosecutor v. Thomas Lubanga Dyilo*, Judgment on the appeals against the "Decision establishing the principles and procedures to be applied to reparations" of 7 August 2012, 3 March 2015, [ICC-01/04-01/06-3129](#), para. 32.

¹⁸ Registry's Request, [ICC-01/12-01/18-2684](#), para. 13.

explicitly mentioned in the Trial Judgment, though submits that Kabara is considered to be an official neighbourhood of the city of Timbuktu.¹⁹ In support, the Registry relies on ‘The Répertoire des villages RGPH 2009’, a report published by the Republic of Mali’s National Institute of Statistics, which provides a comprehensive registry of villages across the country, including demographic and administrative data (the ‘Report’).²⁰ The Registry further submits that Kabara is considered a neighbourhood of the city of Timbuktu for the purpose of the implementation of reparations programmes in the case of *The Prosecutor v. Ahmad Al Faqi Al Mahdi*.²¹

16. The LRV concurs that Kabara is within the geographical scope of the case.²² The Defence also submits that it ‘does not oppose the proposal of the [Registry] to include Kabara within the geographic scope of Timbuktu’.²³
17. The Chamber first notes that the scope of the conviction in relation to the crime of persecution is limited to the city of Timbuktu – not the region. This was clarified by the Chamber in the Sentencing Decision, which stated that, ‘the scope of the crime of persecution was limited in the Trial Judgment to the *city* of Timbuktu’ (emphasis in the original).²⁴ Having considered the Report provided by the Registry, the Chamber concurs with the Registry and the parties, that Kabara is included within the geographic scope of the city of Timbuktu.

C. Requests for clarification related to eligibility

18. The Chamber notes that the remainder of the Registry’s requests for clarification appear to be related to whether specific applications of potential beneficiaries would be considered eligible for reparations in this case. This includes:
 - a. the request for clarification as to whether applications that refer to ‘Timbuktu’ as the place where the alleged crime(s) took place, without mentioning further

¹⁹ Registry’s Request, [ICC-01/12-01/18-2684](#), para. 13.

²⁰ Registry’s Request, [ICC-01/12-01/18-2684](#), para. 13.

²¹ Registry’s Request, [ICC-01/12-01/18-2684](#), para. 13.

²² LRV’s Response, [ICC-01/12-01/18-2686](#), paras 21-24.

²³ Defence’s Response, [ICC-01/12-01/18-2687](#), para. 15.

²⁴ Sentencing Decision, [ICC-01/12-01/18-2662](#), para. 71.

details in a specific part of the city, may be considered as falling within the geographical scope of the case;²⁵

- b. the request for clarification as to whether the VPRS should be flexible in applying the Trial Judgment's reference to the temporal scope of Mr Al Hassan's criminal liability as beginning in 'early May' to include, for example, April or early May 2012 (before 7 May 2012, which was the date stated by the Pre-Trial Chamber as the starting date for examining Mr Al Hassan's criminal responsibility);²⁶ and
- c. the request for clarification as to whether applications of potential beneficiaries, which do not include a precise date in their application as to when an alleged crime occurred (e.g. in '2012'), can be considered as falling within the temporal scope of the case.²⁷

19. The Registry submits that the Chamber's guidance on the issues presented will 'greatly facilitate the legal analysis of the victim application forms, which will in turn inform the Registry submissions on reparations'.²⁸

20. The Chamber notes that at this stage of the proceedings, the Registry has not been ordered to evaluate the eligibility of potential beneficiaries for reparations. Subject to the type of reparations ordered, the Chamber may establish an eligibility criteria for reparations and the applicable standards and burden of proof in the Reparations Order. The Chamber may identify itself the victims eligible to benefit from reparations, or have a separate entity, such as the Victims Participation and Reparations Section, carry out the assessment having received the eligibility criteria from the Chamber.²⁹ The Chamber therefore considers it premature to rule on the above issues.

²⁵ Registry's Request, [ICC-01/12-01/18-2684](#), paras 14-15.

²⁶ Registry's Request, [ICC-01/12-01/18-2684](#), paras 16-17.

²⁷ Registry's Request, [ICC-01/12-01/18-2684](#), para. 18.

²⁸ Registry's Request, [ICC-01/12-01/18-2684](#), para. 11.

²⁹ Trial Chamber II, *The Prosecutor v. Bosco Ntaganda*, Addendum to the Reparations Order of 8 March 2021, ICC-01/04-02/06-2659, 14 July 2023, [ICC-01/04-02/06-2858-Red](#), para. 25; The Appeals Chamber, *The Prosecutor v. Bosco Ntaganda*, Judgment on the appeals against the decision of Trial Chamber VI of 8 March 2021 entitled "Reparations Order", 12 September 2022, [ICC-01/04-02/06-2782](#), para. 387.

D. Registry's request to provide additional submissions and extend the page limit

21. Finally, the Registry requests permission to provide submissions on all issues listed in paragraph 6(i) of the Order and to consequently increase its page limit to 40 pages.³⁰
22. Noting the Registry's submission that it has collected, and continues to receive, significant information pertaining to the issues listed in paragraph 6(i) of the Order that may be helpful to the Chamber in determining reparations in this case, the Chamber hereby grants the Registry's request. The Chamber reminds the Registry of its instruction that all submissions be clear, concise and focused on the relevant issues.³¹

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

CLARIFIES that the parties and participants may make submissions on the number of direct victims of all crimes;

CLARIFIES that Kabara falls within the geographical scope of the city of Timbuktu;

GRANTS the Registry's request to make submissions on all issues listed in paragraph 6(i) of the Order and extends its page limit to 40 pages; and

REJECTS the remainder of the Registry's requests for clarification listed in paragraph 18 above.

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

³⁰ Registry's Request, [ICC-01/12-01/18-2684](#), para. 21.

³¹ Order, [ICC-01/12-01/18-2666](#), para. 12.



Judge Kimberly Prost
Presiding Judge



Judge María del Socorro Flores Liera



Judge Keebong Paek

Dated this 21 March 2025

At The Hague, The Netherlands