

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 26 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

**Public Redacted Version of “Defence response to the Joint Report of the Registry,
Prosecution and Legal Representatives of Victims”**

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:

☒ The Office of the Prosecutor

☒ Counsel for the Defence

Al Hassan Defence Team

☒ Legal Representatives of the Victims
V43

☐ 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

☐ Amicus Curiae

REGISTRY

Registrar
Osvaldo Zavala Giler

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and Reparations
Section

☐ Other

1. The Defence for Mr Al Hassan hereby files its response to the ‘Joint Report pursuant to Trial Chamber X’s “Order for Submissions on Reparations” (ICC-01/12-01/18-2666) and request for extension of time”’(‘the Joint Report’).¹
2. Through this response, the Defence will address:
 - The process for identification and verification;
 - The appointment of legal representation and implications for the contact protocol; and
 - The request for additional time.

Submissions

The process for identification and verification

3. As mentioned by the VPRS, the Defence signalled its willingness and availability to assist the VPRS to identify direct victims, based on leads and information in the possession of the Defence.² The Defence followed up subsequently to discuss the modalities of such collaboration and understands from the response of VPRS that it is waiting for instructions from the Trial Chamber as to if and how to proceed with the proposed collaboration.³ The Defence respectfully brings this to the attention of the Trial Chamber with a view to obtaining an expeditious determination on this matter.
4. As concerns the process of identification, the Joint Report states that the process of verification is based on an assessment of the names of the individuals and also the narrative of events provided by such.⁴ In the case of the Islamic Tribunal judgments, the Defence respectfully submits that in assessing the narrative provided by the victim, it may be appropriate to take into consideration:
 - First, the fact that the *actus reus* of count 6 concerned the absence of indispensable judicial guarantees and not the content of the judgment as such;

¹ The confidential redacted version was transmitted to the Defence on 14 March 2025. [REDACTED].

² Joint Report, para. 21

³ The Defence appreciates the sensitive nature of any discussions concerning the identification of direct victims. [REDACTED].

⁴ Joint Report para. 12.

- Second, the absence of judicial findings as concerns whether the details described in the Islamic Tribunal judgments or related reports were true, beyond reasonable doubt;
- Third, the potential stigma that may be associated with the details described in the Islamic Tribunal judgments or reports; and
- Fourth, the possibility of agreed facts with the Defence concerning the identification and status of victims.

Legal representation

5. From the names listed in the filing, [REDACTED].
6. It is not apparent as to whether any protocol has been implemented to identify such issues, for example, by asking individuals as to whether they have had any prior contact with any individuals associated with the ICC.⁵ If initial contacts are conducted by local VPRS intermediaries, [REDACTED].
7. To avoid any potential conflicts of interest/violations of the contact protocol [REDACTED], the Defence seeks the authorisation of the Trial Chamber to devise an agreed contact and representation protocol with the VPRS, which fulfils the dual objectives of facilitating the individuals' right to participate in the reparations process, while protecting the integrity and confidentiality of Defence investigations and future filings.

Request for Extension of Time

8. The LRV and the Registry have sought an extension of two months to confirm matches with the 24 pre-identified victims and to potentially identify the remaining 21 unidentified victims.⁶
9. The Defence recognises the practical difficulties associated with investigating the identity of individuals, given the often unclear or inconsistent names set out in Islamic Tribunal judgments and reports. The Defence also supports a timely conclusion to the reparations process, consistent with the rights of both the convicted person and victims to expeditious justice. To this end, the Defence reached out to the LRV, with a view to identifying possible

⁵ This is the practice, which is used to ensure compliance with the protocol regulating contacts between the parties/LRV and witnesses, whose identify as such may not be known in advance by the contacting party.

⁶ Joint Report, para 24.

synergies or forms of agreement that would assist and expedite the process. The Defence has not yet received a response from the LRV.

10. The Defence notes that the Trial Chamber has encouraged “the parties and participants to work in full collaboration and cooperation with each other, combining the limited resources available in order to facilitate the efficient and effective conduct of the reparation proceedings.”⁷ The Defence remains available to discuss prospective collaborations and agreements that may help reduce the time required to complete the identification process or otherwise alleviate the impact of discrete delays on the overall time table for reparations.



Melinda Taylor
Lead Counsel for Mr Al Hassan

Dated this 26th day of March 2025

At The Hague, The Netherlands

⁷ ICC-01/12-01/18-2666, p. 6.