

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 28 May 2026

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 Notice of Appeal Against the Reparations Order (ICC-01/12-01/18-2782)

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

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Introduction

1. Mr Al Hassan reiterates his full support for the Court's efforts to achieve restorative justice and repair of the harm suffered by the community of Timbuktu and the victims in this case.¹ To this end, throughout the reparations process, Mr Al Hassan has sought to provide constructive submissions. He has accepted his conviction and his sentence,² and has no intention of relitigating either. He has issued statements of apology on two occasions, first on 16 December 2024,³ and again, on 9 April 2025.⁴ Mr Al Hassan unequivocally stands by both of these apologies.
2. This notwithstanding, it remains that any reparations order issued against Mr Al Hassan must accurately reflect the scope of his conviction, as well as the extent of his culpability as found by Trial Chamber X in the Trial Judgment.⁵ It is on this basis that the Defence of Mr Al Hassan submits this discrete appeal against the Reparations Order.

Procedural Background

3. On 26 June 2024, Trial Chamber X (the "Chamber"), in a previous composition, issued its Trial Judgment (the "Judgment"), convicting Mr Al Hassan of three counts of crimes against humanity and five counts of war crimes.⁶
4. On 13 December 2024, the Chamber issued the "Order for Submissions on Reparations".⁷
5. On 11 June 2025, the Defence filed its "Defence Observations on Reparations".⁸
6. On 16 July 2025, the Defence filed its "Defence Response to Observations on Reparations".⁹
7. On 17 September 2025, the Chamber held a reparations hearing whereby the Defence made final oral submissions on reparations.¹⁰

¹ See Defence Observations on Reparations, [ICC-01/12-01/18-2729](#), para. 1 ("Defence Observations").

² Defence Notice of Discontinuance of Appeal against Trial Judgment rendered by Trial Chamber X on 26 June 2024, [ICC-01/12-01/18-2667](#).

³ Annex A to Defence Notice of Discontinuance of Appeal, [ICC-01/12-01/18-2667-AnxA](#).

⁴ Annex A and C to Defence Disclosure of Evidence, including a statement from Mr Al Hassan, [ICC-01/12-01/18-2710-AnxA](#) (Arabic); [ICC-01/12-01/18-2710-AnxC](#) (French).

⁵ Trial Judgment, [ICC-01/12-01/18-2594-Red](#); Separate and Partly Dissenting Opinion of Judge Tomoko Akane, [ICC-01/12-01/18-2594-OPI](#); Separate and Partly Dissenting Opinion of Judge Antoine Kesia-Mbe Mindua, [ICC-01/12-01/18-2594-OPI3-tENG](#).

⁶ Trial Judgement, [ICC-01/12-01/18-2594-Conf](#).

⁷ Order for Submissions on Reparations, [ICC-01/12-01/18-2666](#), 13 December 2024.

⁸ Defence Observations on Reparations, [ICC-01/12-01/18-2729](#), 11 June 2025.

⁹ Defence Response, [ICC-01/12-01/18-2741-Red](#), 16 July 2025.

¹⁰ See T-219.

8. On 28 April 2026, the Chamber issued the Reparations Order, against which the present appeal is directed.¹¹

Notice of Appeal

9. The Defence for Mr Al Hassan gives notice of its appeal against the Reparations Order of Trial Chamber X in the case of *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, filing number ICC-01/12-01/18-2782, dated 28 April 2026 (“Reparations Order”).¹²
10. The appeal is directed against the Reparations Order in part, and is brought under Article 82(4) of the Rome Statute, Rule 150(1) of the Rules of Procedure and Evidence (“Rules”), and Regulation 57 of the Regulations of the Court.
11. The appeal will illustrate that the Chamber erred in law, fact and procedure, which invalidates the Reparations Order in part.

Grounds of Appeal

12. The Appellant intends to raise the following 3 grounds of appeal:

Ground 1: The Trial Chamber impermissibly expanded the scope of Mr Al Hassan’s conviction and criminal responsibility for the crime of persecution (Count 13)

13. The Chamber erred in law and/or in fact by expanding the scope of Mr Al Hassan’s culpability for the crime of persecution,¹³ due to having attributed to Mr Al Hassan certain harms suffered for acts for which he was not convicted of, and thus increased the number of applicable direct victims and the amount of the final award.¹⁴
14. The Trial Chamber erred in its interpretation and/or failed to properly apply the findings of the Trial Judgment, and in particular Judge Akane’s Separate and Partly Dissenting opinion and Judge Mindua’s full acquittal,¹⁵ which together delineated the scope of Mr Al Hassan’s conviction and his contributions, for the crime of persecution. Per Judge Akane, Mr Al Hassan’s conviction for persecution is restricted to the acts which sustained the convictions under Counts 1-5, and 14 pursuant to her interpretation of the “connection requirement” under Article 7(1)(h) of the Rome Statute.¹⁶ Further, Judge Akane’s separate opinion

¹¹ Reparations Order, [ICC-01/12-01/18-2782](#).

¹² Reparations Order, [ICC-01/12-01/18-2782](#).

¹³ Reparations Order, [ICC-01/12-01/18-2782](#), paras 56-62, more specifically, paras 59-61.

¹⁴ Reparations Order, [ICC-01/12-01/18-2782](#), paras 94-96, paras 102-104, para. 118, para. 121, para. 123.

¹⁵ Reparations Order, [ICC-01/12-01/18-2782](#), paras. 56-62; Separate and Partly Dissenting Opinion of Judge Tomoko Akane, [ICC-01/12-01/18-2594-OPI](#); Separate and Partly Dissenting Opinion of Judge Antoine Kesia-Mbe Mindua, [ICC-01/12-01/18-2594-OPI3-tENG](#).

¹⁶ Separate and Partly Dissenting Opinion of Judge Tomoko Akane, [ICC-01/12-01/18-2594-OPI](#), paras. 99-100. Judge Akane specified that this excluded acts “falling outside the common purpose.”

expressly excluded from the scope of Mr Al Hassan's culpability for persecution the following: the destruction of the mausoleums,¹⁷ the imposition of a dress code on women,¹⁸ acts from *Hesbah* committed against women, such as the forced marriages and the rapes in detention.¹⁹ The Chamber also erred in relying on the Sentencing Decision to expand Mr Al Hassan's scope of conviction.²⁰

15. These errors materially affected the Reparations Order. The Trial Chamber erred in attributing to Mr Al Hassan harms that resulted from acts that fall outside the scope of his criminal responsibility for persecution, for instance, the emotional and community harm for the destruction of monuments of religious importance,²¹ the loss of schooling and education due to measures imposed on public schools,²² the social impact of the imposition of gender-specific rules on clothing,²³ and "similarly situated victims" who suffered harm other than the 49 victims.²⁴ Consequently, the Chamber erred in finding that every member of the population of the city of Timbuktu was a direct victim of Mr Al Hassan for the crime of persecution on religious ground within the meaning of Rule 85 of the Rules.²⁵ This in turn caused a considerable increase in the amount of reparations owed by Mr Al Hassan.²⁶

Ground 2: The Chamber erred in failing to set a proportionate award against Mr Al Hassan for the crime of persecution on the basis of his participation

16. The Chamber erred in law, and/or in fact and procedure by failing (i) to provide sufficient reasoning as to how the final award issued against Mr Al Hassan is proportionate in light of his participation in the commission of the crime of persecution; and/or (ii) to give sufficient weight and consideration to Mr Al Hassan's participation and contribution to the harm caused by carrying out the crime of persecution, in assessing his proportional personal liability.
17. As the Appeals Chamber held in *Lubanga*, "[a] convicted person's liability for reparations must be proportionate to the harm caused and, *inter alia*, his or her participation in the commission of the crimes for which he or she was found guilty, in the specific circumstances of the case."²⁷

¹⁷ Separate and Partly Dissenting Opinion of Judge Tomoko Akane, [ICC-01/12-01/18-2594-OPI](#), fn. 178.

¹⁸ Separate and Partly Dissenting Opinion of Judge Tomoko Akane, [ICC-01/12-01/18-2594-OPI](#), para. 102.

¹⁹ Separate and Partly Dissenting Opinion of Judge Tomoko Akane, [ICC-01/12-01/18-2594-OPI](#), para 101.

²⁰ Reparations Order, [ICC-01/12-01/18-2782](#), para. 57.

²¹ Reparations Order, [ICC-01/12-01/18-2782](#), paras 94-96.

²² Reparations Order, [ICC-01/12-01/18-2782](#), paras 102-104.

²³ Reparations Order, [ICC-01/12-01/18-2782](#), paras 121, 123.

²⁴ Reparations Order, [ICC-01/12-01/18-2782](#), paras 187, 194.

²⁵ Reparations Order, [ICC-01/12-01/18-2782](#), paras 52-61. *See further* paras 221-226.

²⁶ Reparations Order, [ICC-01/12-01/18-2782](#), para. 241.

²⁷ *Lubanga*, Appeals Judgment on Reparations, [ICC-01/04-01/06-3129](#), para. 118.

18. *First*, in its determination of the amount of liability to be awarded against Mr Al Hassan,²⁸ the Chamber failed to provide sufficient reasoning and/or any analysis as to Mr Al Hassan's proportionate liability for harms caused, in light of his actions, participation and contribution to the crime of persecution, as found by the Trial Judgment and Separate Opinions. This may include consideration of the mode of liability that Mr Al Hassan was convicted of for the crime of persecution, being, Article 25(3)(d). This resulted in a key element of any reparations order, i.e. that it establish and inform the convicted person of the amount of his or her liability,²⁹ to be insufficiently reasoned.
19. *Second*, and in the alternative, the Trial Chamber failed to properly assess the proportionality between his participation in the crime of persecution and the harm suffered when determining the award.³⁰ There is no indication in Part E that the Chamber gave sufficient weight and consideration of Mr Al Hassan's participation and contribution to the crime of persecution in its assessment of the harm caused by Mr Al Hassan. Mr Al Hassan's personal liability must be proportionate to the harm he caused by his participation in the crime of persecution.
20. The material result of these errors is that the Chamber fixed a disproportionate award against Mr Al Hassan.³¹

Ground 3: The Chamber erred in setting the number of direct victims at 65,202 individuals for the crime of persecution

21. The Trial Chamber erred in law, fact and/or procedure in setting the number of direct victims at 65,202 individuals.³²
22. *First*, the adoption of a presumption of victimhood for every member of the city of Timbuktu during the relevant period of the charges was predicated on the Trial Chamber's impermissible expansion of the scope of Mr Al Hassan's criminal responsibility for the crime of persecution, itself detailed in **Ground 1**.
23. The Appeals Chamber has established that "bearing in mind the standard of review, a party challenging a factual presumption must demonstrate that no reasonable trier of fact could have formulated the presumption in question in light of the particular set of circumstances in that case".³³ The Chamber's presumption of victimhood for every individual in Timbuktu

²⁸ Reparations Order, [ICC-01/12-01/18-2782](#), Part E.

²⁹ Reparations Order, [ICC-01/12-01/18-2782](#), para. 18(v).

³⁰ Reparations Order, [ICC-01/12-01/18-2782](#), Part E.

³¹ Reparations Order, [ICC-01/12-01/18-2782](#), paras 223, 241.

³² Reparations Order, [ICC-01/12-01/18-2782](#), paras 63, 226.

³³ *Ongwen* Appeals Judgment on Reparations, [ICC-02/04-01/15-2108](#), para. 84; *Katanga*, Appeals Judgment on Reparations, [ICC-01/04-01/07-3778-Red](#), para. 77; *Ntaganda*, Appeals Judgment on Reparations, [ICC-01/04-02/06-2782](#), paras 32, 696.

is erroneous – no reasonable Trial Chamber would have formulated this presumption having full regard to the correct scope of Mr Al Hassan’s criminal responsibility for the crime of persecution.

24. *Second*, the Chamber failed to provide a reasoned opinion when dismissing the Defence’s argument that it was appropriate to focus on the effects of the harm experienced by the community of Timbuktu as such, rather than expanding the number of direct victims.³⁴ Judge Ibáñez stated in her Separate Opinion in the *Lubanga* case that where the community itself suffered harm as a result of the experiences of direct victims, it may be possible to designate the community itself as a collective victim.³⁵
25. *Third*, and in the alternative, the Chamber failed to provide a sufficiently reasoned basis for its decision to adopt the figure of 65,202 provided by the Registry,³⁶ in circumstances where parties had submitted materially lower figures.³⁷ Alternatively, and in any event, the Trial Chamber’s conclusion of 65,202 was unreasonable in light of the parties’ submissions and the trial record. Moreover, the Trial Chamber also erred in failing to resolve any uncertainty in favour of Mr Al Hassan as required by the Appeals Chamber in the *Ntaganda* case.³⁸
26. These errors, individually and cumulatively, materially affected the Reparations Order, as they led the Trial Chamber to erroneously adopt a figure of 65,202 direct victims,³⁹ and by extension erroneously inflated the award of Mr Al Hassan’s personal financial liability.⁴⁰

Relief Sought

27. In light of the foregoing and as a result of Trial Chamber X’s errors of law, fact and procedure, as set out in this Defence Notice of Appeal, the overall relief sought by the Defence is to remand the Reparations Order to Trial Chamber X or, in the alternative, for the Appeals Chamber to issue an amended Reparations Order that does not exceed and correctly reflects the scope of Mr Al Hassan’s conviction, his participation and contribution to the crime of persecution; limits the number of applicable direct victims; and proportionally reduces his financial liability accordingly.

³⁴ Defence Observations on Reparations, [ICC-01/12-01/18-2729](#), para. 17.

³⁵ *Lubanga*, Separate Opinion of Judge Luz Del Carmen Ibáñez Carranza, [ICC-01/04-01/06-3466-AnxII](#), paras 143-144.

³⁶ Reparations Order, [ICC-01/12-01/18-2782](#), para. 226.

³⁷ Registry Submissions, [ICC-01/12-01/18-2733-Red](#), para. 9; Prosecution Submissions, [ICC-01/12-01/18-2734-Red](#), paras 12–15; LRVs Second Submissions, [ICC-01/12-01/18-2732-Red](#), para. 137.

³⁸ *Ntaganda*, Appeals Judgment on Reparations, [ICC-01/04-02/06-2782](#), para. 172, citing *Lubanga* Appeals Judgment on the Size of Reparations Award, [ICC-01/04-01/06-3466-Red](#), paras 3, 90, 223–224.

³⁹ Reparations Order, [ICC-01/12-01/18-2782](#), paras 224-226.

⁴⁰ Reparations Order, [ICC-01/12-01/18-2782](#), paras 63, 224-226.



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Dated this 28th day of May 2026
At The Hague, The Netherlands