

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date 19 October 2026

THE APPEALS CHAMBER

Before: Judge Luz del Carmen Ibáñez Carranza, Presiding Judge
Judge Tomoko Akane
Judge Solomy Balungi Bossa
Judge Gocha Lordkipanidze
Judge Erdenebalsuren Damdin

SITUATION IN MALI

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

Public

**Response to the “Defence Request for Leave to Reply to the OPCV Response
(ICC-01/12-01/18-2798)”**

Source: Office of Public Counsel for Victims

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☒ Counsel for the Defence

☒ Legal Representatives of the Victims

☐ Legal Representatives of the Applicants

☐ Unrepresented Victims

☐ Unrepresented Applicants
(Participation/Reparation)

☒ The Office of Public Counsel for Victims

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☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and
Reparations Section

☐ Public Information and Outreach
Section

I. INTRODUCTION

1. Counsel from the Office of Public Counsel for Victims (the “OPCV”) hereby file their response to the “Defence Request for Leave to Reply to the OPCV Response (ICC-01/12-01/18-2798)” (the “Defence’s Request” or the “Request”).¹

2. Counsel submit that the Request should be dismissed *in limine* as untimely. The Defence’s reliance on regulation 60(1) of the Regulations of the Court (the “Regulations”) is misplaced, as regulation 34 ordinarily applies. In any event, the Defence did not show that the exercise of the Appeals Chamber’s discretion to entertain the Request is warranted in the interests of justice. Moreover, the Defence has failed to demonstrate that the issues it raises are genuinely new matters requiring further submissions, or that permitting a reply would assist the Appeals Chamber in resolving any outstanding issue.

II. PROCEDURAL HISTORY

3. On 28 April 2026, Trial Chamber X issued the Reparations Order.²

4. On 28 July 2026, the OPCV,³ the LRVs⁴ and the Defence⁵ filed their respective Appeal Briefs.

¹ See the “Defence Request for Leave to Reply to the OPCV Response (ICC-01/12-01/18-2798)”, [No. ICC-01/12-01/18-2801](#), 13 October 2026 (the “Defence’s Request” or the “Request”).

² See the “Reparations Order” (Trial Chamber X), [No. ICC-01/12-01/15-2872](#), 28 April 2026.

³ See the “OPCV Appeal Brief against the Reparations Order”, [No. ICC-01/12-01/18-2796](#), 28 July 2026 (the “OPCV Appeal Brief”).

⁴ See the “*Mémoire d’appel des Représentants légaux des victimes contre l’Ordonnance de réparations rendue par la Chambre de première instance X (ICC-01/12-01/18-2782)*”, [No. ICC-01/12-01/18-2795](#), 28 July 2026.

⁵ See the “Defence Appeal Brief against the Reparations Order (ICC-01/12-01/18-2782)”, [No. ICC-01/12-01/18-2797Conf A A3](#), with two public annexes, 28 July 2026. A public redacted version [No. ICC-01/12-01/18-2797-Red A A3](#) was filed on 19 August 2026 (the “Defence Appeal Brief”).

5. On 28 September 2026, the OPCV⁶ and the Defence⁷ filed their respective responses (respectively, the “OPCV’s Response” and the “Defence’s Response”).

6. On 2 October 2026, the OPCV filed a Request for leave to reply to the Defence’s Response.⁸

7. On 14 October 2026, the Defence filed a Request for leave to reply to the OPCV’s Response.⁹

III. SUBMISSIONS

8. Regulation 34 of the Regulations, which applies to all stages of the proceedings, provides that “[a] request for leave to reply shall be filed within three days of [...] of the response”. The Defence filed the Request sixteen days after being notified of the OPCV’s Response, well beyond the prescribed time limit. In this regard, said Response was 22-pages long. By contrast, Counsel filed their Request for leave to reply to the Defence’s Response, which comprised 48 pages, within the three-day time limit prescribed by regulation 34. This comparison further underscores the Defence’s failure to comply with the applicable procedural deadline.

9. The Defence’s reliance on regulation 60 of the Regulations is misplaced. That provision stipulates that “[w]henver the Appeals Chamber considers it necessary in the interests of justice, it may order the appellant to file a reply within such time as it may specify

⁶ See the “OPCV Consolidated Response to the Defence and LRVs Appeal Briefs against the Reparations Order”, [No. ICC-01/12-01/18-2798](#), 28 September 2026 (the “OPCV’s Response”).

⁷ See the “Defence Joint Response to OPCV Appeal Brief against the Reparations Order (ICC-01/12-01/18-2796) and LRVs *Mémoire d’appel des Représentants légaux des victimes contre l’Ordonnance de réparations rendue par la Chambre de premier*”, [No. ICC-01/12-01/18-2799-Conf](#), 28 September 2026, with public Annexes A and B. A public redacted version [No. ICC-01/12-01/18-2799-Red](#) was filed on 2 October 2026 (the “Defence’s Response”).

⁸ See the “OPCV’s Request for Leave to Reply to the “Defence Joint Response to OPCV Appeal Brief against the Reparations Order (ICC 01/12-01/18-2796) and LRVs *Mémoire d’appel des Représentants légaux des victimes contre l’Ordonnance de réparations rendue par la Chambre de première instance X* (ICC-01/12-01/18-2782) (ICC-01/12-01/18-2795)”, [No. ICC-01/12-01/18-2800-Conf](#), 2 October 2026.

⁹ See the Defence’s Request, *supra* note 1.

in its order". Regulation 60 governs the Appeals Chamber's discretionary power to order the filing of a reply; it does not confer upon a party an unrestricted right to seek leave to reply at any stage of appellate proceedings, nor does it dispense with the requirements of procedural diligence.

10. The Defence relies on several decisions in support of its contention that the circumstances of the present case warrant the exercise of the Appeals Chamber's discretion under regulation 60(1).¹⁰ Counsel submit, however, that the circumstances underpinning those decisions are materially distinguishable and provide no basis for exercising that discretion in the Defence's favour. In the *Lubanga* case,¹¹ the relevant circumstances concerned the emergence of new information or evidence to which the convicted person ought to have been afforded an opportunity to respond, thereby raising a legitimate consideration under the interests of justice standard. Similarly, in the *Bemba* case,¹² the proposed reply was considered pertinent to the proper adjudication of the appeal, rather than serving merely to reiterate arguments already advanced. Neither circumstance is present here. The Defence has failed to demonstrate that its proposed reply is necessitated by new information or evidence requiring a response, or that it would otherwise contribute materially to the proper adjudication of the appeal. In substance, the Request seeks to afford the Defence a further opportunity to address matters already canvassed in the proceedings, without establishing why an additional round of submissions is necessary. In fact, the Defence attempts to address deficiencies of its previous submissions contained in its Response. Accordingly, the jurisprudence relied upon by the Defence is distinguishable and does not support the exercise of the Appeals Chamber's discretionary power under regulation 60(1).

¹⁰ *Ibid.*, para. 3.

¹¹ See the "Order on the filing of a reply under regulation 60 of the Regulations of the Court" (Appeals Chamber), [No. ICC-01/04-01/06-2982](#), 21 February 2013as referred to in the Defence's Request, *supra* note 1, para. 2.

¹² See the "Decision on Mr Bemba's request for leave to reply to the Prosecutor's Response to the Document in Support of the Appeal" (Appeals Chamber), [No. ICC-01/05-01/08-3480](#), 7 December 2016, para. 8, as referred to in the Defence's Request, *supra* note 1, para. 4.

11. Counsel acknowledge that, in the *Gbagbo & Blé Goudé* case, the Appeals Chamber clarified that regulation 60 does not prescribe a time limit for filing requests for leave to reply and that the Appeals Chamber therefore retains discretion to set a deadline for such requests.¹³ However, this finding does not support the Defence's reliance on regulation 60 as a basis for the Request. Rather, the Appeals Chamber's decision to fix a deadline in that case demonstrates that the absence of an express time limit in regulation 60 does not preclude the Appeals Chamber from regulating the timing of such requests on a case by case basis, having regard to the circumstances and the stage of the appellate proceedings. Regulation 60, therefore, cannot be construed as conferring an automatic entitlement to seek leave to reply irrespective of the procedural circumstances or the timing of the request. The Request should therefore be dismissed *in limine* as untimely.

12. In any event, even if the Appeals Chamber were to entertain the Request notwithstanding its lateness, the Defence must demonstrate that a further submission is necessary in the interests of justice. The mere invocation of regulation 60(1) is insufficient to justify the exercise of the Appeals Chamber's discretionary power in its favour. The Defence has failed to establish any such necessity. In the absence of a demonstrated need for a further pleadings in the interests of justice, the Request should be rejected also as manifestly ill-founded.

12. Furthermore, none of the issues identified by the Defence are new or could not reasonably have been anticipated. Indeed, the matters on which the Defence seeks leave to reply have already been the subject of substantive written submissions. Contrary to the Defence's assertions,¹⁴ the Request identifies no unforeseeable arguments or developments that could not reasonably have been anticipated or

¹³ See the "Order scheduling a hearing before the Appeals Chamber and setting a time limit for any request for leave to reply" (Appeals Chamber), [No. ICC-02/11-01/15-1318](#), 20 March 2020, para. 6.

¹⁴ See the Defence's Request, *supra* note 1, paras. 3 and 12.

addressed in the course of the existing proceedings. Rather, the three issues identified by the Defence appear to constitute a further attempt to reiterate, reframe, or expand upon arguments already advanced in its previous Response and duly placed on the record. The Defence has failed to demonstrate that these issues raise any genuinely new matter requiring further submissions, or that permitting a reply would assist the Appeals Chamber in resolving any outstanding issue. Accordingly, the proposed reply would merely prolong the exchange of submissions without adding any discernible value to the Appeals Chamber' consideration of the matter.

IV. CONCLUSION

13. For the foregoing reasons, Counsel respectfully request the Appeals Chamber to reject the Defence Request *in limine* as untimely, or in the alternative, as being without merit.



Dmytro Suprun



Paolina Massidda

Dated this 19th day of October 2026
At The Hague (The Netherlands)