

Situation in the Republic of Mali

Update: 26 June 2024

The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud

Questions and answers: Judgment in the Al Hassan case

26 June 2024

1. WHAT DID THE CHAMBER DECIDE?

On 26 June 2024, Trial Chamber X of the International Criminal Court (ICC) by majority, convicted Mr Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud of some of the charges brought against him of war crimes and crimes against humanity committed between 2 April 2012 and 29 January 2013 in Timbuktu, northern Mali, controlled at that time by the armed groups Ansar Dine and Al-Qaida in Islamic Maghreb (AQIM).

The Presiding Judge read out a summary of the judgment in court, stating that “although Al Hassan was working for a group that claimed to be applying Islamic Sharia, this trial was not about Sharia, or the Muslim religion in general”. The trial concerned the acts and conduct of a man, Mr Al Hassan, acting in a specific context. The Bench examined the evidence to ascertain whether Mr Al Hassan’s responsibility was established beyond reasonable doubt.

The Chamber noted that, after being recruited by senior leaders of AQIM, Mr Al Hassan became a senior member of the Islamic Police, where he took on a leadership role that included organizing police work. The Islamic Police played a pivotal role in the system Ansar Dine/AQIM put in place to commit the crimes. He also participated in the work of the Islamic Court as a member of the Islamic Police, *inter alia* by writing and signing police reports, taking part in the transfer of accused persons to the Islamic Court and implementing the judgments and sentences handed down by it. He remained a member of the Islamic Police until Ansar Dine/AQIM left Timbuktu. Hence, Mr Al Hassan contributed to the system put in place by Ansar Dine/AQIM.

Mr Al Hassan was convicted, by majority, of directly committing the crimes himself, contributing to them with others or aiding and abetting the commission of the crimes by others, in relation to:

- i. the crimes against humanity of torture; and
- ii. the war crimes of torture and outrages upon personal dignity;

and of contributing to the crimes perpetrated by other members of Ansar Dine/AQIM, in relation to:

- i. the war crimes of mutilation, cruel treatment and passing sentences without previous judgment pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable; and
- ii. the crimes against humanity of persecution and other inhumane acts.

2. ON WHICH BASIS DID THE CHAMBER CONCLUDE THAT MR AL HASSAN IS GUILTY?

To make its decision, the Chamber reviewed all the evidence submitted during the trial, including documents, eye witnesses and insiders. Over the course of 195 hearings, 52 oral witnesses were called by the Prosecution and 22 Defence witnesses appeared in court. The Legal Representatives of Victims, representing 2196 victims in this case, also called two witnesses to testify. 7,896 documents were recorded during this trial, totalling several thousand pages, and 13,275 items of evidence were submitted.

3. WHAT SENTENCE CAN BE PRONOUNCED AGAINST MR AL HASSAN AND WHEN?

An order setting the timetable for the sentencing procedure to be imposed on Mr. Al Hassan will be issued shortly.

The judges may impose a prison sentence, a fine may be added or forfeiture of the proceeds, property, and assets derived directly or indirectly from the crimes committed. The maximum sentence is 30 years. However, in extreme cases, the Court may impose a term of life imprisonment.

In order to determine Mr Al Hassan's sentence in this case, the Chamber will receive submissions from the parties and participants regarding the possible sentence, and will schedule a separate hearing to receive evidence and to discuss matters related to sentencing. Mr Al Hassan will remain in detention until such time.

4. WHY WAS MR. AL HASSAN ACQUITTED OF SOME OF THE CHARGES PRESENTED BY THE PROSECUTOR?

The existence of certain crimes of sexual violence that took place in Timbuktu during the period of the charges was established by the Chamber. Nevertheless, the Chamber found that there was insufficient evidence that Mr. Al Hassan was responsible for these crimes, beyond a reasonable doubt, and was consequently acquitted of the following charges:

- i. the war crimes of rape, sexual slavery; and attacking protected objects ;
- ii. the crimes against humanity of rape, sexual slavery and other inhumane acts in the form of forced marriage.

5. WILL VICTIMS OBTAIN REPARATIONS?

Victims before the ICC have rights that have never been granted before an international criminal court or tribunal. They can participate during the proceedings. In this particular case, Trial Chamber X authorised 2196 victims to participate in the trial proceedings, represented by their legal counsels, Seydou Doumbia, Mayombo Kassongo, and Fidel Nsita Luvengika.

Independently of participation, victims of the crimes for which Mr. Al Hassan was convicted can seek reparations. In the case against Mr Al Hassan, issues related to the procedure for victims' reparations will be addressed in due course, after sentencing.

In order to determine Mr. Al Hassan's sentence in this case, the Chamber will receive submissions from the parties and participants

6. CAN THIS VERDICT BE APPEALED?

Yes, the parties (the Prosecution and Defence) may appeal the decision of conviction, or parts of it, within thirty days, in which case, an Appeals Chamber composed of five judges will decide on the matter.