

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **30 July 2021**

APPEALS CHAMBER

Before: Judge Luz del Carmen Ibáñez Carranza, Presiding
 Judge Piotr Hofmański
 Judge Perrin de Brichambaut
 Judge Solomy Balungi Bossa
 Judge Gocha Lordkipanidze

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 "Prosecution's provision of further information regarding the Defence Appeal of 'Decision on Application for Notice of Possibility of Variation of Legal Characterisation Pursuant to Regulation 55(2) of the Regulations of the Court'", ICC-01/12-01/18-1472-Conf, 12 May 2021

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

Mr Karim A. A. Khan QC
Mr James Stewart
Ms Helen Brady

Counsel for the Defence

Ms Melinda Taylor
Ms Kirsty Sutherland
Mr Antoine Vey

Legal Representatives of the Victims

Mr Seydou Doumbia
Mr Mayombo Kassongo
Mr Fidel Luvengika Nsita

Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented Applicants

The Office of Public Counsel for Victims

The Office of Public Counsel for the Defence

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Mr Nigel Verrill

Detention Section

Victims Participation and Reparations Other Section

1. The Prosecution informs the Appeals Chamber of developments regarding [REDACTED] in the trial proceedings which may concern Mr Al Hassan's appeal against Trial Chamber X's decision notifying the Parties and participants of a possible change in the legal characterisation under regulation 55(2) of the Regulations of the Court ("Appeal").¹

2. By way of background, in his first ground of appeal, Mr Al Hassan argued that the Trial Chamber erred by finding that it could consider the alleged acts of a sexual nature committed against four specific victims/witnesses (P-0574, P-0542, P-0570 and P-0547) under Counts 1-5 (namely, as torture as a crime against humanity and a war crime, other inhumane acts as a crime against humanity, cruel treatment as a war crime and outrages upon personal dignity as a war crime).²

3. The Prosecution respectfully informs the Appeals Chamber that it no longer intends to rely on [REDACTED] for its case against Mr Al Hassan, and has recently informed the Trial Chamber, the Defence and the Legal Representatives for the Victims.³ Notwithstanding, the Trial Chamber's approach articulated in its Decision with respect to all four victims/witnesses remains relevant to the Appeal,⁴ and as such, the Prosecution's legal submissions in its response to the Appeal on this ground remain unchanged.⁵ Accordingly, the Prosecution requests the Appeals Chamber to find that the Trial Chamber's overall approach is correct, notwithstanding that it no longer intends to rely on [REDACTED] for its case.

¹ ICC-01/12-01/18-1369-Conf ("Appeal"); ICC-01/12-01/18-1211-Conf ("Decision").

² Appeal, paras. 1-3, 5-27.

³ The Prosecution notified Trial Chamber X, the Defence and the Legal Representatives of the Victims by email on 10 May 2021 that it intends to [REDACTED] and stated that it would file a notice in this regard as soon as possible before the Trial Chamber.

⁴ Decision, paras. 57-69.

⁵ ICC-01/12-01/18-1399-Conf ("Response"), paras. 6-20.

4. This notice is filed confidentially pursuant to regulation 23bis(2) of the Regulations of the Court because it refers to the content of filings of the same classification.



Karim A. A. Khan QC, Prosecutor

Dated this 30th day of July 2021

At The Hague, The Netherlands