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You Can't Hide, You Can't Run

The Lafarge Judgement's Influence on International Criminal Law

— On 13 April 2026, the Paris Criminal Court convicted the French building materials company Lafarge and four of its former executives for financing armed groups in Syria during the Syrian civil war and for violating EU sanctions. Lafarge was ordered to pay a fine of 1.125 million Euro. The judgment is remarkable not only because it concerns corporate conduct in an armed conflict, but because it appears to be the first conviction in France of a company, as a legal person, for financing terrorist organizations. Meanwhile, separate proceedings against Lafarge for complicity in crimes against humanity remain pending before the French courts.

This post argues that the judgment should not be read as a merely domestic criminal law decision. Its significance is threefold. First, it exposes the limits of the 'neutral conduct' argument that corporations use to try to *hide* behind economical business decisions in conflict zones. Second, the post shows how the doctrinal foundation for future convictions for aiding and abetting crimes against humanity is being laid out by the court. Third, it underscores the structural importance of national courts for the enforcement of international criminal law (ICL).

The Judgement

Lafarge was convicted of financing terrorism under Article 421-2-2 of the French Penal Code (C. pén.). Until 2014, Lafarge operated a cement plant in northern Syria through its Syrian subsidiary. The court found that, between 2013 and 2014, Lafarge paid approximately 5.5 million Euro to armed groups, including, in particular, the Islamic State, the Ahrar Al-Sham and Jabhat Al-Nusra (point 425). These payments allowed plant operations by securing safe passage and access to resources (point 416).

The conviction was based on Article 421-2-2 C. pén., which criminalizes the financing of terrorism, read in conjunction with Article 121-2 C. pén. The latter provision allows corporate liability when offences are committed by leading company representatives. Four former executives, including ex-CEO Bruno Lafont, were also convicted and sentenced to prison, which enabled the possibility of legal person conviction. After the judgement, all eight defendants, as well as Lafarge, appealed their convictions. On 26 May 2026, the former CEO Bruno Lafont and his right-hand Christian Herrault were released due to the pending appeal.

Article 421-2-2 provides that financing a terrorist enterprise may itself constitute an act of terrorism where a person provides funds, values, or property while *knowing* that they are intended to be used, in whole or in part, to commit terrorist acts. According to French case law, it is not necessary that the paying part itself intended to commit such acts; rather, *knowledge* about the terroristic character of the other is sufficient (point 410). Under French law, terrorism is defined as a number of listed acts in Articles 421-1 to 421-6 C. pén. that aim to seriously disturb public order through intimidation or terror— such as homicide, extortion or similar acts. The court did not have to prove whether the

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Islamic State, Ahrar Al-Sham or Jabhat Al-Nosra were terrorist groups but only if they committed any of the enumerated acts and whether LaFarge *knew* about those acts. The court found that the recipient organizations had committed several massacres in Syria and that Lafarge, through its executives, was aware of their terrorist character (points 556–561). On this basis, Lafarge must have known the funds provided would, in one way or another, support the financing or commission of terrorist acts.

The End of Neutral Conduct?

In the past, corporations operating in conflict-affected areas have often justified their activities with the “neutral conduct” argument. This means “business conduct that appears legitimate on the surface and falls within day-to-day business operations, but nonetheless contributes to the crim” (Hajdin, p. 381). A typical example would be the sale of computer technology at market rates, without any purpose of assisting criminal activity, even though the technology ultimately strengthens the recipient’s capacity to commit human rights violations (Hajdin, p. 381). In practice, this argument has offered companies a convenient way of *hiding* themselves from criminal liability. Although Lafarge did not invoke the “neutral conduct” argument in precisely these terms, it advanced a closely related line of defence. The company argued that it had been “forced” to make the payments in order to protect its employees and ensure their safety (points 537–538). The court rejected this argument in unequivocal terms, even describing it as “shocking” (points 537–538).

It would, however, be too far-reaching to read the judgment as a fundamental reorientation of the law, let alone as a doctrinal shift that could automatically be transposed to other legal systems or to ICL. The conviction was made possible by the specific structure of French criminal law, and in particular by the knowledge-based threshold under Article 421-2-2 C. pén. Nevertheless, the decision may still carry significance beyond French law. Its potential implications for international criminal law become apparent when placed in relation to the pending proceedings against Lafarge for complicity in crimes against humanity. We have also seen similar arguments in the *Lundin Energy* lawsuit in Sweden, where oral arguments are currently under way.

Implications for Future Cases

The greater significance of the Lafarge judgment for ICL lies in its possible implications for the still pending proceedings concerning complicity in crimes against humanity.

Under French law, complicity is governed by Article 121-7 C. pén. The provision establishes criminal liability for anyone who “knowingly, through aid or assistance,” facilitates the preparation or commission of a felony. This presupposes the existence of a principal offence – in the present context, crimes against humanity as defined in Article 212-1 C. pén. The French Court of Cassation has, in its decision during the investigation-stage in 2021, already established that acts of assistance are interpreted broadly under French law and may include the provision of funds (point 81). On the *mens rea* side, French case law requires that the accomplice be aware that the principal perpetrator is committing, or will commit, the relevant crime – here, crimes against humanity (point 67).

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French courts have also made clear that the economical purpose of international corporations does not, as such, shield them from liability for complicity where they knowingly provide aid or assistance that facilitates the preparation or commission of crimes. Here, too, the logic of ‘neutral conduct’ is pushed aside: the fact that payment is embedded in a business relationship does not automatically deprive it of criminal significance.

The crucial link to the pending crimes against humanity proceedings lies in the findings of the Paris court in its April judgment. The court has already established that Lafarge *knew* that the recipients of its payments were committing massacres against the civilian population in Syria and nevertheless continued to provide funds (points 556–561). This judicially established knowledge may become directly relevant in the proceedings concerning complicity in crimes against humanity. A company that knowingly finances an organization which systematically and extensively commits crimes against the civilian population can plausibly be understood as knowingly aiding and assisting those crimes within the meaning of Article 121-7 C. pén.

In this respect, the judgment already provides strong support for establishing the required mental element in the pending crimes against humanity proceedings. Given the extensive evidence of widespread and systematic attacks committed by the Islamic State and Al-Qaida affiliated groups in Syria, the establishment of the principal offences is unlikely to constitute an obstacle.

Why Domestic Jurisprudence is Essential for ICL

That the Lafarge case was tried before a national court rather than on the grand stage of ICL in The Hague is no coincidence. According to the complementary principle, domestic prosecution of international crimes is a vital part of ICL. The International Criminal Court’s (ICC) role is to complement domestic systems and not replace it (Article 1 Rome Statute (RS)). But this case also shows structural deficits of the ICC-System.

Under Article 25 RS, the ICC has jurisdiction only over natural persons, not legal entities. Although the inclusion of corporate criminal liability was discussed during the negotiations of the RS, it was ultimately not adopted (Scheffer, p. 38). This shows domestic courts’ importance in international criminal law. They can address cases the ICC cannot reach.

Unlike in France, there is no established case law from the ICC when it comes to aiding and abetting. Under Article 25(3)(c) RS, a person is only criminally responsible if they, “for the purpose of facilitating the commission of such a crime, aid, abet or otherwise assist in its commission or its attempted commission, including providing the means for its commission.” The 1996 ILC Draft Code had envisaged a requirement of “direct and substantial” assistance to the commission of the crime (ILC Draft Code 1996, p. 18). Ultimately, however, the *actus reus* of aiding and abetting has been shaped through international case law. The ICTY initially relied on a similar formulation in Tadić, requiring a “direct and substantial contribution” and understanding substantiality as a causal link between the assistance and the result (ICTY *Tadić*, para. 688). In *Furundžija*, the ICTY later refined this standard by asking whether the assistance made a “significant difference” to the commission of the crime by the principal perpetrator (ICTY *Furundžija*, para. 233).

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The Rome Statute itself adopts a less restrictive formulation, since Article 25(3)(c) RS does not expressly require that the assistance be “direct” or “substantial”. Nevertheless, ICC case law has at times required that the assistance have an “effect on the commission of the offence” (ICC *Bemba 2014*, para. 35). This effect does not necessarily need to be indispensable but it has often been described as requiring a certain degree of substantiality (Ambos, p. 1222). Later ICC decisions, however, appear to lower this threshold again by rejecting the need for a “specific threshold” (ICC *Ongwen*, para. 43; ICC *Al Mahdi*, para. 26), whereas mere knowledge that their conduct will assist the principal perpetrator would not suffice (*Bemba 2016*, para. 97).

As a result, international criminal law does not offer a fully settled standard on which corporate-related assistance cases can safely rely. This doctrinal uncertainty is worrying, particularly in light of the principle of legality and the requirement of specificity. What can be said is that where assistance has a substantial effect on the principal offence, aiding and abetting may clearly be established (see also Ambos, p. 1223). Whether looser forms of contribution also suffice remains considerably less certain.

Conclusion

The Lafarge case shows the importance of a strong domestic system to address this kind of corporate wrongdoing. Had these acts occurred in a state unwilling or unable genuinely to prosecute, the ICC – given its jurisdictional and doctrinal limits – could not have stepped in to fulfil its role as a court of “last resort”.

Legal entities fall outside its jurisdiction, the doctrine of aiding and abetting remains unsettled, and the Rome Statute contains no standalone offence of terrorist financing. These are not mere technicalities. They are normative gaps that become particularly visible where economic actors support violent groups without themselves taking up arms. Closing these gaps through an amendment of the Rome Statute would be a substantial undertaking, requiring a two-thirds majority of State Parties (Article 121(3) RS) and touching foundational principles that were themselves the product of years-long negotiation. Extending jurisdiction to legal persons, introducing a standalone terrorist financing offence, and/or revisiting the aiding and abetting standard under Article 25(3)(c) RS each carry real risks: corporate liability provisions would erode the principle of individual criminal responsibility that is manifested into the RS, while a lowered assistance threshold might undermine legal certainty under nullum crimen sine lege.

This post does not argue that such reforms are necessary or even desirable in the near term. Rather, the Lafarge case illustrates that domestic criminal law, where properly designed, is already sufficiently empowered to address precisely the kind of corporate conduct that ICL cannot yet reach. This is not to say that such a reform would be without any merits. Through the complementary principle (Article 1 RS) each state party to the Rome Statute would have to implement some sort of corporate liability themselves. Under that approach, the capacity to prosecute corporate actors would no longer depend on whether a company happens to be based in a state that has already chosen to extend criminal liability to legal persons. By that, the current

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risk of fragmentation between different legal regimes and their jurisdictions would be overcome. The European Union has already pursued a similar logic: the 2024 Environmental Crime Directive obliges Member States to criminalize environmental offences and to ensure that legal persons can be held liable (to some degree), thereby trying harmonizing corporate accountability across jurisdictions.

For now, this judgment sends a clear warning to corporations operating in conflict sensible environments. Those who seek to 'buy their way out' of engagement with armed actors, or to secure access to markets through payments to such actors, will find it increasingly difficult to *hide* behind formally neutral business transactions. Even without the ICC, the message from Paris to corporations acting in Syria, Sudan or Mozambique is unmistakable: *you can't hide, you can't run*.

(All translations from the original French judgment and penal code were conducted with DeepL.)