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Pénale
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**International
Criminal
Court**

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**THREE JUDGES OF THE APPEALS CHAMBER APPOINTED FOR THE REVIEW
CONCERNING REDUCTION OF SENTENCE**

Before: Judge Luz del Carmen Ibáñez Carranza, Presiding Judge
Judge Gocha Lordkipanidze
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

**Public redacted version of "Corrected version of 'Prosecution's submissions on
Mr Al Hassan's sentence review'", ICC-01/12-01/18-2719,Conf, 29 April 2025**

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I. Introduction

1. Pursuant to the order by the three Judges of the Appeals Chamber appointed for the review concerning reduction of sentence (“Panel”),¹ the Prosecution provides its written submissions regarding Mr Al Hassan’s sentence review. In these submissions, the Prosecution also addresses the observations filed by the Registrar,² the Legal Representatives of Victims (“LRVs”)³ and the Government of Mali,⁴ as appropriate.

2. On 26 June 2024, the Trial Chamber convicted Mr Al Hassan of eight counts.⁵ In its Sentencing Judgment of 20 November 2024, the Trial Chamber sentenced him to a total period of imprisonment of 10 years,⁶ deducting the time Mr Al Hassan had spent in detention since 28 March 2018, in accordance with an order of the Court.⁷ As noted by the Appeals Chamber, on 28 November 2024 Mr Al Hassan had served two thirds of the sentence imposed on him.⁸

3. On 17 December 2024, Mr Al Hassan filed a notice to discontinue his appeal against the Trial Judgment and informed the Appeals Chamber of his decision not to appeal the Sentencing Judgment.⁹ In a public filing annexed to the Defence Notice of Discontinuance, Mr Al Hassan asked for forgiveness from all those he harmed and from all the victims of Timbuktu during the period from May 2012 to January 2013, whose suffering was set out in the Trial Judgment and the Sentencing Judgment.¹⁰ Taking note of these matters, the Prosecution also discontinued its appeal against the Trial Judgment and decided not to appeal the Sentencing Judgment. The Prosecution considered that it would serve the interests of justice to bring the proceedings in this case to a close and to ensure that its outcome is final.¹¹

¹ [ICC-01/12-01/18-2698](#) (“Scheduling Order”). The Panel subsequently extended the time for the Republic of Mali to file its observations and for the Prosecution, the Defence and the LRVs to file their submissions: [ICC-01/12-01/18-2706](#).

² [ICC-01/12-01/18-2702](#) (“Registrar’s Observations”); [REDACTED]; [ICC-01/12-01/18-2707](#) (“Registrar’s Addendum”).

³ [ICC-01/12-01/18-2708](#) (“LRVs Observations on Article 110”).

⁴ [ICC-01/12-01/18-2712-AnxI](#) (“Government of Mali Observations”).

⁵ [ICC-01/12-01/18-2594-Red](#) (“Trial Judgment”). The Trial Chamber convicted Mr Al Hassan of torture as a crime against humanity; torture as a war crime; other inhumane acts as a crime against humanity; cruel treatment as a war crime; outrages upon personal dignity as a war crime; sentencing without due process as a war crime; persecution on religious grounds as a crime against humanity; and mutilation as a war crime.

⁶ [ICC-01/12-01/18-2662](#) (“Sentencing Judgment”).

⁷ [Sentencing Judgment](#), paras. 137-138.

⁸ [ICC-01/12-01/18-2678](#) (“Decision on Appointment of Judges”), p. 3.

⁹ [ICC-01/12-01/18-2667](#) (“Defence Notice of Discontinuance”).

¹⁰ [ICC-01/12-01/18-2667-AnxA](#) (“Al Hassan Statement”).

¹¹ [ICC-01/12-01/18-2668](#) (“Prosecution Notice of Discontinuance”).

4. On 7 March 2025, the Appeals Chamber confirmed that both notices of discontinuance met the procedural requirements under rule 152 and terminated the appellate proceedings against Mr Al Hassan.¹² As a result, his conviction and sentence became final.

5. On 9 April 2025, the Defence disclosed an additional statement from Mr Al Hassan, which was later also publicly filed.¹³ [REDACTED].¹⁴ [REDACTED].¹⁵

6. The Prosecution sets out its submissions below on the factors in article 110(4) and rule 223 and its overall position on the reduction of Mr Al Hassan's sentence.

II. Confidentiality

7. These submissions are filed confidentially, as they refer to information that is currently subject to the same classification. A public redacted version of these submissions will be filed as soon as possible.

III. Submissions

A. *Applicable legal framework*

8. The legal framework for review of a sentence is set out in article 110 of the Statute and rule 223 of the Rules of Procedure and Evidence.

9. Under article 110(4), which states that “the Court may reduce” a sentence, the decision to grant a sentence reduction is discretionary. In assessing whether a reduction is appropriate, the Panel must evaluate each factor outlined in article 110(4) and rule 223 to determine their presence. The factors identified—whether supporting or militating against a reduction—must then be weighed against one another to decide if a sentence reduction is warranted.¹⁶

10. Article 110(4)(c) lists “other factors establishing a clear and significant change of circumstances sufficient to justify the reduction of sentence”. This refers to the factors listed in

¹² [ICC-01/12-01/18-2688](#) (“Decision on Notices”), para. 26.

¹³ See MLI-D28-0008-0068 (“9 April 2025 Statement”). Mr Al Hassan signed the Arabic version of his statement. Unofficial translations of the statement into English (MLI-D28-0008-0072) and French (MLI-D28-0008-0076) were also disclosed. On 14 April 2025, the Defence filed the 9 April Statement ([ICC-01/12-01/18-2710-AnxA](#), or “9 April 2025 Statement – AR”), as well as translations into English ([ICC-01/12-01/18-2710-AnxB](#), or “9 April 2025 Statement – EN”) and French ([ICC-01/12-01/18-2710-AnxC](#), or “9 April 2025 Statement – FR”). The 9 April 2025 Statement and its translations were also included in the “Al Hassan D28 disclosure package 224 14 April 2025”, which has been released onto eCourt.

¹⁴ [REDACTED].

¹⁵ [REDACTED].

¹⁶ See [ICC-01/12-01/15-434-Red3](#) (“Al Mahdi Review Decision”), para. 15. See also [ICC-01/04-01/06-3173](#) (“Lubanga First Review Decision”), paras. 21-22; [ICC-01/04-01/07-3615](#) (“Katanga Review Decision”), para. 20.

rule 223(a) to (e).¹⁷ The factors listed in rule 223(a), (d) and (e), require “clear and significant change of circumstances” since the sentence was imposed. In this regard, “clear” has been defined in previous review decisions as “free from doubt”, “unambiguous” and “very obvious” while “significant” has been defined as “large enough to be noticed or have an effect” or “of a measurable large amount”.¹⁸

*B. Article 110(4)(a): The early and continuing willingness of the person to cooperate with the Court in its investigations and prosecutions*¹⁹

11. In its Sentencing Judgment, the Trial Chamber found that Mr Al Hassan’s cooperation with the Prosecution at the investigation stage constituted a mitigating circumstance.²⁰ In particular, it found that Mr Al Hassan voluntarily gave statements to the Prosecution while detained in Mali by national authorities, before the ICC issued an arrest warrant against him. It noted that the interviews spanned many hours and were conducted over 19 days during an eight-month period. Mr Al Hassan’s statements made during these interviews were given in waiver of his right to silence and self-incrimination. It noted that the statements were lengthy and comprehensive in content, covering a wide range of topics of direct relevance to this case and included inculpatory information; that he answered questions clearly and in detail, generally providing specific, factual information which was responsive to the question posed and descriptive in nature; and that throughout, he was precise and careful in the replies he gave, setting out his basis of knowledge for the responses he gave and avoiding speculation.²¹

12. The Trial Chamber found that in light of Mr Al Hassan’s “willingness to participate extensively in the interviews,” the nature of the information he provided and its subsequent use by the Chamber, it did not consider that his later (unsuccessful) objection to the introduction of his statements into evidence negated his cooperation, but rather that his cooperation with the Prosecution at the investigation stage should be considered a mitigating circumstance.²²

13. To the extent that a trial chamber determines that a convicted person’s conduct qualifies as cooperation with the Court and assigns weight to that factor in mitigation of sentence, a review panel will not generally revisit that determination.²³ However, whether cooperation considered

¹⁷ [Al Mahdi Review Decision](#), para. 16; [Lubanga First Review Decision](#), para. 28; [Katanga Review Decision](#), para. 19.

¹⁸ [Al Mahdi Review Decision](#), para. 16; [Katanga Review Decision](#), para. 47; [Lubanga First Review Decision](#), para. 28.

¹⁹ [Al Mahdi Review Decision](#), para. 24; [Katanga Review Decision](#), para. 34.

²⁰ [Sentencing Judgment](#), para. 123.

²¹ [Sentencing Judgment](#), para. 122.

²² [Sentencing Judgment](#), para. 123.

²³ [Al Mahdi Review Decision](#), para. 25; [Katanga Review Decision](#), para. 28.

at the sentencing stage qualifies as “early” cooperation within the meaning of article 110(4)(a) is to be assessed on a case-by-case basis.²⁴

14. Consistent with the Court’s prior practice,²⁵ the Prosecution considers that Mr Al Hassan’s voluntary and comprehensive article 55(2) statements to the Prosecution during the investigation phase—statements that the Trial Chamber found to be generally credible and on which it relied in the Trial Judgment²⁶—constitute early cooperation within the meaning of article 110(4)(a).

15. Following his conviction and sentence, Mr Al Hassan has also demonstrated his continuing cooperation with the Court, which has contributed to the efficient administration of justice. Most significantly, Mr Al Hassan discontinued his appeal against the Trial Judgment and chose not to appeal the Sentencing Judgment.²⁷ Moreover, when withdrawing his appeal, Mr Al Hassan attached a public statement in which he “ask[ed] for forgiveness from all those [he] harmed and from all the victims of Timbuktu during the period of May 2012 to January 2013, whose suffering was set out in the Trial Judgment and Decision on Sentence”.²⁸ He accepted that as a consequence of withdrawing his appeal and not appealing his sentence, the definitive findings of the Trial Judgment and Sentencing Decision would be final.²⁹ On 9 April 2025, Mr Al Hassan made an additional statement in which he reiterated his request for forgiveness.³⁰

16. The circumstances are similar to those in *Katanga*. The *Katanga* review panel noted that a convicted person’s decision not to exercise the right to appeal should not automatically, and in and of itself, be seen as cooperation with the Court. However, it also observed that, should a convicted person choose not to exercise this right as a result of acknowledging that he or she is guilty of the crimes committed and publicly apologise, this may prevent the unnecessary prolongation of the proceedings, bring finality to the proceedings, and allow for the timely conduct of reparation proceedings. The withdrawal of an appeal in such circumstances advances

²⁴ [Katanga Review Decision](#), paras. 26, 28; [Al Mahdi Review Decision](#), para. 25.

²⁵ See [Katanga Review Decision](#), para. 30-31. The Panel—quoting from [ICC-01/04-01/07-3484-tENG-Corr](#) (“*Katanga* Sentencing Decision”), para. 128—noted that “Mr Katanga did give a lengthy testimony, readily answered the questions from the parties, the participants and the Bench, and volunteered information and detail”. See also [Al Mahdi Review Decision](#), para. 26. The Panel—referring to findings from [ICC-01/12-01/15-171](#) (“*Al Mahdi* Judgment and Sentence”), paras. 98-102—considered Mr Al Mahdi’s spontaneous cooperation, which “started as early as the first day of his interviews. Mr Al Mahdi responded in an honest manner and his cooperation enabled the Prosecution to corroborate, clarify and specify information [...] in its possession”.

²⁶ [Sentencing Judgment](#), para. 122.

²⁷ [Defence Notice of Discontinuance](#).

²⁸ [Al Hassan Statement](#), paras. 4-5.

²⁹ See [Al Hassan Statement](#), para. 1, accepting the statement of his Counsel (see para. 3).

³⁰ [9 April 2025 Statement – EN](#), paras. 12-15.

the efficient administration of justice post-sentence and can be considered to demonstrate cooperation with the Court within the meaning of article 110(4)(a).³¹

17. The Prosecution considers that, for similar reasons, Mr Al Hassan's withdrawal of his appeal—coupled with his public statement accepting that, as a consequence, the definitive findings of the Trial Judgment and Sentencing Decision would be final,³² and requesting forgiveness from the victims—advances the efficient administration of justice post-sentence, and can be considered to demonstrate cooperation with the Court within the meaning of article 110(4)(a).³³ In his 9 April 2025 Statement, Mr Al Hassan reiterated his request for forgiveness.³⁴ These acts of cooperation, occurring after the end of the trial and the imposition of sentence, demonstrate his continuing cooperation with the Court, consistent with the *Katanga* Review Decision.³⁵

18. Finally, the Prosecution notes that Mr Al Hassan has committed to take a “non-adversarial approach to reparations”, in line with the “victims’ right to speedy reparations”.³⁶ In its initial submissions before the Reparations Chamber, the Defence has taken a cooperative stance, including by advocating for a broad definition of indirect victims who may be entitled to reparations and by offering to collaborate with the LRVs.³⁷

19. For the reasons set out above, the Prosecution considers that the factor set out in article 110(4)(a) is present.

C. Article 110(4)(b): The voluntary assistance of the person in enabling the enforcement of the judgments and orders of the Court in other cases, and in particular providing assistance in locating assets subject to orders of fine, forfeiture or reparations which may be used for the benefit of victims

20. The Prosecution has no information regarding the factor under article 110(4)(b).

*D. Rule 223(a): The conduct of the sentenced person while in detention, which shows a genuine dissociation from his or her crime*³⁸

21. The Prosecution considers that Mr Al Hassan's decision to withdraw his appeal against his convictions and not to appeal the sentence, coupled with his public statement attached to his

³¹ [Katanga Review Decision](#), para. 34.

³² See above footnote 29.

³³ See also below para. 24 (submissions on rule 223(a)). But see [LRVs Observations on Article 110](#), paras. 22, 24, 44, 47.

³⁴ [9 April 2025 Statement – EN](#), paras. 12-15.

³⁵ [Katanga Review Decision](#), para. 34.

³⁶ [ICC-01/12-01/18-2673](#) (“Defence Response to LRVs”), paras. 4, 25.

³⁷ [ICC-01/12-01/18-2687](#) (“Defence Response to VPRS”), paras. 4-6; 11-12, 14. But see [LRVs Observations on Article 110](#), paras. 36-39.

³⁸ See [Registrar's Observations](#), para. 5; [LRVs Observations on Article 110](#), para. 26.

notice of discontinuance, tends to demonstrate a genuine dissociation from the crimes for which Mr Al Hassan was convicted, within the meaning of rule 223(a).³⁹ In his public statement, he requested forgiveness from the victims and accepted that by withdrawing his appeal and not appealing his sentence, the definitive findings of the Trial Judgment and Sentencing Decision would be final.⁴⁰ He also reiterated his request for forgiveness from the victims in his 9 April 2025 Statement.⁴¹ These steps constitute a clear and significant change of circumstances from the time that the sentence was imposed.⁴²

22. In its sentencing submissions, the Defence argued that Mr Al Hassan had sought forgiveness from the victims, citing his unsworn written statement under article 67(1)(h).⁴³ However, the Chamber found that this statement was vague and lacked an acknowledgment of wrongdoing or harm caused.⁴⁴ As a result, it declined to consider it as a mitigating factor. The Chamber noted that, during the trial, Mr Al Hassan did not make any public apologies or express remorse toward the victims, and that the Defence presented a paraphrased version of Mr Al Hassan's statements in the sentencing hearing and the public version of its Sentencing Brief. It also found that because his "apology" was included in a confidential written statement, it failed to achieve its intended purpose of being personally and publicly communicated to the victims in order to contribute to peace and reconciliation. As such, it gave no weight to it in mitigating the sentence.⁴⁵

23. However, Mr Al Hassan's subsequent decision to withdraw his appeal—coupled with his public statement attached to his notice of discontinuance, in which he accepted that as a consequence of withdrawing his appeal and not appealing his sentence, the definitive findings of the Trial Judgment and Sentencing Decision would be final, and requested forgiveness from the victims—demonstrates a clear and significant change in circumstances under rule 223(a).

³⁹ [Katanga Review Decision](#), para. 47, [Lubanga First Review Decision](#), para. 45, [Al Mahdi Review Decision](#), para. 41.

⁴⁰ See above footnote 29.

⁴¹ [9 April 2025 Statement – EN](#), paras. 12-15.

⁴² [Katanga Review Decision](#), para. 47; [Lubanga First Review Decision](#), para. 45; [Al Mahdi Review Decision](#), para. 41.

⁴³ [Sentencing Judgment](#), para. 92 (referring to Mr Al Hassan's Statement MLI-D28-0007-0638-R01, at 0653-0654).

⁴⁴ [Sentencing Judgment](#), para. 92 ("[TRANSLATION] I ask the forgiveness of all those I have wronged. People may feel that you harmed them although you didn't realize that you did harm, but if they say that you did harm, then it is necessary to ask forgiveness – these are matters of course. [...] I believe I must ask forgiveness from the heart, because otherwise I cannot have God's reward: it would be an insincere request for forgiveness, and that is not good. A heartfelt request for forgiveness makes amends for the harm you may have done. And that is why, if a person considers that I did them harm, I can ask their forgiveness, and will do so from the heart").

⁴⁵ [Sentencing Judgment](#), paras. 97-98. The Chamber also referred to a prior finding in the Trial Judgment, according to which the President of the High Islamic Council of Timbuktu, on behalf of the Muslim community of Timbuktu, granted forgiveness to Mr Al Hassan and communicated their hope that Mr Al Hassan be back in the community: [Sentencing Judgment](#), para. 125 (referring to [Trial Judgment](#), para. 1087).

He reiterated his request for forgiveness from the victims in his 9 April 2025 Statement, and stated that over the past year he had “taken time to deeply reflect” and that he now “realize[s] that some of [his] decisions caused harm”.⁴⁶ Unlike his previous statement during the sentencing proceedings, his subsequent apologies seeking forgiveness from the victims have been made publicly by Mr Al Hassan and are more direct and specific. Mr Al Hassan has expressly asked for forgiveness from all those he harmed and from all the victims of Timbuktu during the period of May 2012 to January 2013, whose suffering was set out in the Trial Judgment and Decision on Sentence.⁴⁷

24. The Prosecution notes that Mr Al Hassan has also made general remarks suggesting a dissociation from the events in Timbuktu between May 2012 and January 2013. He has emphasised his “firm opposition to forced marriage” and described himself as “a strong advocate for the education of women and girls.” He stated that he is “totally against the use of forced interrogations” and that he opposes “all forms of extremism.”⁴⁸ These statements, while they may be considered positive, are general in nature and do not directly address the crimes for which he was convicted or his role in the events in Timbuktu. According to the Court’s jurisprudence, they cannot be considered as evidence of genuine dissociation from his crimes under rule 223(a).⁴⁹ However, as noted below, Mr Al Hassan’s general remarks distancing himself from events in Timbuktu and denouncing extremism may be a relevant consideration under rule 223(b).⁵⁰

25. For the above reasons, the Prosecution considers that the factor set out in rule 223(a) is present.

*E. Rule 223(b): The prospect of the resocialisation and successful resettlement of the sentenced person*⁵¹

26. The notion of reintegration or resocialisation into society is not ordinarily taken into account when considering an appropriate term of imprisonment. Instead, it is more appropriately

⁴⁶ [9 April 2025 Statement – EN](#), para. 12.

⁴⁷ [Al Hassan Statement](#), para. 5 (stating: “I ask for forgiveness from all those I harmed and from all the victims of Timbuktu during the period of May 2012 to January 2013, whose suffering was set out in the Trial Judgment and Decision on Sentence”). See also [9 April 2025 Statement – EN](#), paras. 12-15 (in which Mr Al Hassan reiterated his request for forgiveness). But see [LRVs Observations on Article 110](#), paras. 22, 24, 44, 47.

⁴⁸ [Al Hassan Statement](#), paras. 6-12. See also [9 April 2025 Statement – EN](#), paras. 13, 16-19.

⁴⁹ See [Lubanga First Review Decision](#), para. 46; [Katanga Review Decision](#), para. 47 (when assessing whether the factor under 223(a) is present, “there is a difference between a person expressing opposition to a particular criminal act in the abstract and that person accepting responsibility and expressing remorse for having committed the criminal acts. [...] The factor under rule 223(a) is primarily concerned with the latter, and not the former”).

⁵⁰ [Al Mahdi Review Decision](#), paras. 50, 53.

⁵¹ See also [Registrar’s Observations](#), paras. 6-11. The LRVs do not include any substantive observations on this point: see [LRVs Observations on Article 110](#), para. 27.

addressed during sentence review proceedings.⁵² In its Sentencing Judgment, the Trial Chamber nevertheless noted that “the information before it, [was] insufficient to make findings, even on a balance of probabilities, on future rehabilitation prospects and the consequences of Mr. Al Hassan’s return to Timbuktu and reinsertion into society in general.” As a result, the Chamber declined to find mitigating circumstances on this basis.⁵³

27. Since the Sentencing Judgment, the Prosecution has obtained only limited additional information that might be relevant to assess Mr Al Hassan’s prospect of resocialisation and successful resettlement.

28. In his statement attached to the Defence Notice of Discontinuance, and in his recent 9 April 2025 Statement, Mr Al Hassan set out some of his plans for the time after his release. He stated that he is committed to engage in the training of women in the medical field and in advocacy action for the education of women and girls. He also stated that he wishes to work together with others towards restorative and transitional justice in Mali.⁵⁴ Mr Al Hassan further made general remarks suggesting a dissociation from the events in Timbuktu between May 2012 and January 2013.⁵⁵

29. The Prosecution notes the Registrar’s Observations. These set out a preliminary assessment and state that conducting a comprehensive individual risk assessment on Mr Al Hassan’s potential return to Mali is currently challenging, due in part to the prevailing security situation in the country. In order to conduct a more conclusive assessment, the Registry would need additional information, including on the timing and location of a potential return, as well as whether Mr Al Hassan intends to make a public apology or take other steps to make amends.⁵⁶ Based on information currently available, the Registry observes that there is no indication that Mr Al Hassan would face any threat if he were to return to a place other than Mali.⁵⁷

30. [REDACTED].⁵⁸

31. Due to the limited information currently available, the Prosecution is presently unable to determine whether the factor under rule 223(b) is present. The Prosecution agrees that a further

⁵² [Katanga Review Decision](#), para. 57.

⁵³ [Sentencing Judgment](#), para. 129. *See also* paras. 125-128.

⁵⁴ [Al Hassan Statement](#), paras. 7-8, 12. *See also* [9 April 2025 Statement – EN](#), paras. 16-19.

⁵⁵ [Al Hassan Statement](#), paras. 6-12. *See also* [9 April 2025 Statement – EN](#), paras. 13, 16-19. *See* [Al Mahdi Review Decision](#), paras. 50, 53. *See further above* para. 24.

⁵⁶ [Registrar’s Observations](#), para. 6; [REDACTED].

⁵⁷ [Registrar’s Observations](#), para. 7. The Prosecution further notes that according to the Registrar, Mr Al Hassan’s interaction with other detained persons, staff, and custody officers in detention “does not suggest any impediment to his resocialisation”: [Registrar’s Observations](#), para. 11; *see also* paras. 8-9, 20-21. [REDACTED].

⁵⁸ [REDACTED].

risk assessment by the Registry will be necessary and appropriate in light of recent developments. To the extent that Mr Al Hassan is found to be at risk on account of his interaction with the Court,⁵⁹ appropriate measures may be required.

*F. Rule 223(c): Whether the early release of the sentenced person would give rise to significant social instability*⁶⁰

32. According to the Court's practice, significant social instability may be demonstrated by information indicating that the sentenced person's return to the State at issue could, *inter alia*, undermine public safety, cause social unrest such as riots or acts of ethnic-based violence, lead to the commission of new international crimes by the sentenced person or by his or her supporters, or undermine public confidence in the domestic legal system.⁶¹

33. The Government of Mali submits that Mr Al Hassan's early release to Mali is likely to cause significant social instability. It notes that terrorist crimes continue to be committed across the country, that most perpetrators remain unpunished, that individuals previously released—including members of armed groups—have rejoined these groups and resumed their criminal activities, and that reprisals are possible.⁶² The LRVs submit, *inter alia*, that the victims' fear of Mr Al Hassan's return could, in itself, generate social instability, and that their dissatisfaction with the sentence and potential early release could provoke unrest within their communities.⁶³

34. The Registrar acknowledges that there is some risk of social instability resulting from an early release of Mr Al Hassan. It assesses that risk as low, regardless of whether Mr Al Hassan is released in Mali or elsewhere.⁶⁴

35. [REDACTED].⁶⁵ [REDACTED].

36. Based on the observations of the Government of Mali, the LRVs and the Registry, there is some risk that Mr Al Hassan's early release to Mali could lead to significant social instability. Thus, if released to Mali, the factor under rule 223(c) is present. However, these observations

⁵⁹ See e.g. [ICC-01/04-01/07-776 OA7](#) ("Katanga Relocation Appeal Judgment"), para. 101 ("[It is] essential to ensure, as a matter of the highest priority, that witnesses are appropriately protected. This is, pursuant to article 68 of the Statute, a responsibility of the Court as a whole.") See also [ICC-01/04-01/07-475 OA](#) ("Katanga Redaction Appeal Judgment"), paras. 1, 47, 54, 56 ("specific provisions of the Statute and the Rules for the protection not only of witnesses and victims and members of their families, but also of others at risk on account of the activities of the Court are indicative of an overarching concern to ensure that persons are not unjustifiably exposed to risk through the activities of the Court").

⁶⁰ See also [Registrar's Observations](#), paras. 12-13; [LRVs Observations on Article 110](#), paras. 20-22, 30; [Government of Mali Observations](#), pp. 2-3.

⁶¹ [Katanga Review Decision](#), para. 74; [Al Mahdi Review Decision](#), para. 58.

⁶² [Government of Mali Observations](#), p. 2.

⁶³ See [LRVs Observations on Article 110](#), paras. 29-30. See also paras. 21-22.

⁶⁴ [Registrar's Observations](#), paras. 12-13. [REDACTED].

⁶⁵ [REDACTED].

do not permit a clear assessment of the extent of that risk, which the Government has stated is likely and the Registry has evaluated as low. The factor remains difficult to predict, and this unclear level of risk should be considered when weighing this against the other relevant factors. Furthermore, if Mr Al Hassan were to be released to a location other than Mali, the Prosecution notes that the Register has assessed any risk of significant social instability as low.

*G. Rule 223(d): Any significant action taken by the sentenced person for the benefit of the victims as well as any impact on the victims and their families as a result of the early release*⁶⁶

37. Under this factor, two considerations must be addressed: first, whether the sentenced person has taken significant action for the benefit of the victims of the crimes for which he was convicted;⁶⁷ and second, the impact of early release on the victims and their families.⁶⁸ While a panel assessing rule 223(a) and (d) may rely on the same information or actions, the focus differs: rule 223(a) examines the actions from the perspective of, or impact on, the sentenced person, whereas rule 223(d) requires the panel also to consider the victims' perspectives regarding the actions taken. The panel must make an objective evaluation of the sentenced person's actions balanced against the reasonableness of the victims' objections that they have not benefitted from those actions.⁶⁹

38. Regarding the first consideration under rule 223(d), the Prosecution notes that following his conviction and sentencing, Mr Al Hassan has undertaken significant steps that could benefit the victims of the crimes for which he was convicted.⁷⁰ Mr Al Hassan discontinued his appeal against the Trial Judgment and chose not to appeal the Sentencing Judgment.⁷¹ When discontinuing its own appeal, the Prosecution noted that discontinuance of the appeals was in the interests of justice because it ensured that the outcome in this case is final.⁷² As a result, the victims of the crimes for which Mr Al Hassan was convicted may seek and obtain reparations, without awaiting the uncertain outcomes of complex appeals by both the Prosecution and the Defence in potentially lengthy appellate proceedings.⁷³ At the same time, the Prosecution

⁶⁶ See also [Registrar's Observations](#), paras. 14-19; [LRVs Observations on Article 110](#), paras. 23-25, 31-40; [Government of Mali Observations](#), pp. 2-3.

⁶⁷ Involvement in, *inter alia*, the reparation process or a demonstration of regret could be acts considered to be relevant to this factor: [Katanga Review Decision](#), para. 87; [Lubanga First Review Decision](#), para. 69.

⁶⁸ [Al Mahdi Review Decision](#), para. 63; [Katanga Review Decision](#), para. 87.

⁶⁹ [Katanga Review Decision](#), paras. 90-91.

⁷⁰ The Prosecution recalls that the focus of any assessment under rule 223(d) are the victims of the crimes for which Mr Al Hassan was convicted: [Al Mahdi Review Decision](#), para. 63; [Katanga Review Decision](#), para. 87. The LRVs do not specifically address the first consideration under rule 223(d): see [LRVs Observations on Article 110](#), para. 40.

⁷¹ [Defence Notice of Discontinuance](#), para. 4; [Al Hassan Statement](#), para. 2.

⁷² [Prosecution Notice of Discontinuance](#), para. 3.

⁷³ See [ICC-01/12-01/18-2672](#) ("Prosecution's submission in response to the LRV's observations"), para. 5.

recognises that some victims expressed their disappointment, anger and frustration with the Prosecution's discontinuance of its appeal.⁷⁴

39. When withdrawing his appeal, Mr Al Hassan publicly apologised to the victims by seeking forgiveness from all those he harmed and all the victims in Timbuktu in the relevant period, whose suffering was set out in the Trial and Sentencing Judgments.⁷⁵ He has reiterated his request for forgiveness in his 9 April 2025 Statement and stated that over the past year he had "taken time to deeply reflect" and that he now "realize[s] that some of [his] decisions caused harm".⁷⁶ These public statements could reasonably be seen as beneficial to the victims of the crimes for which he was convicted. At the same time, the Prosecution notes that according to the LRVs, in their response to the discontinuance of the appeals, a "non-negligible number of victims feel that the apology was opportunistic and not obviously sincere when looked at in the light of the trial and the lack of any expression of remorse or apology from Mr Al Hassan at any phase whatsoever of the proceedings."⁷⁷ Many victims stated that an apology was premature, a sentiment that the LRVs interpreted as indicating that reparations should precede any apology or request for forgiveness.⁷⁸ The Prosecution also notes the LRV's recent observations on this matter.⁷⁹

40. In addition, as noted above, Mr Al Hassan has committed to take a "non-adversarial approach to reparations", in line with the "victims' right to speedy reparations".⁸⁰ In its initial submissions before the Reparations Chamber, the Defence has offered to cooperate with the LRVs.⁸¹ While the Defence's statements at this stage are largely aspirational and their impact on the reparations outcome remains uncertain, they are nonetheless relevant to the present assessment. This is because Mr Al Hassan's actions must be assessed in light of the stage of proceedings in which they occurred.⁸²

41. Regarding the second consideration in rule 223(d), the Prosecution notes the LRVs Observations on this factor.⁸³ They submit that the vast majority of victims they interviewed reported that they oppose Mr Al Hassan's early release, as they feel it would signal that the

⁷⁴ See e.g. [LRVs Observations on Discontinuance](#), paras. 15-19, 21-23, 26, 30; [LRVs Reply](#), paras. 14-16, 19. See also [LRVs Observations on Article 110](#), paras. 13, 15.

⁷⁵ [Al Hassan Statement](#), paras. 4-5.

⁷⁶ 9 April Statement, paras. 12-15.

⁷⁷ [LRVs Observations on Discontinuance](#), para. 24. See also [LRV Reply](#), para. 12.

⁷⁸ [LRVs Observations on Discontinuance](#), para. 25. See also [LRVs Observations on Article 110](#), paras. 36-37.

⁷⁹ [LRVs Observations on Article 110](#), paras. 22, 24, 44, 47.

⁸⁰ [Defence Response to LRVs](#), paras. 4, 25.

⁸¹ But see [LRVs Observations on Article 110](#), paras. 36-39.

⁸² [Katanga Review Decision](#), para. 97.

⁸³ [LRVs Observations on Article 110](#), paras. 31-39.

Court does not fully acknowledge their suffering.⁸⁴ Some victims also expressed concerns for the safety and security of themselves and their families, and believe that Mr Al Hassan's release would pose a threat, generate tensions within the affected communities and reinforce their trauma.⁸⁵ Finally, the LRVs submit that his early release would foster a sense of injustice among victims, and that their expectations regarding the ongoing reparation proceedings should be duly considered.⁸⁶ While the LRVs observe that the victims they interviewed oppose any reduction of Mr Al Hassan's sentence,⁸⁷ they submit that, should he be released, certain security measures should be implemented. In particular, Mr Al Hassan should be prohibited from contacting the victims and from returning to Timbuktu, where the crimes were committed.⁸⁸ Additionally, the victims expressed their wish that Mr Al Hassan issue a public and sincere apology to them prior to any release.⁸⁹

42. The Registry states that it has collected some observations from victims and NGOs in Timbuktu and Bamako on the potential impact of Mr Al Hassan's early release.⁹⁰ Those consulted objected to Mr Al Hassan's early release for various reasons, including because early release would be perceived by the victims as "additional suffering" since the Trial Judgment did not meet their expectations, and because of security concerns, especially if Mr Al Hassan were to return to the city and region of Timbuktu.⁹¹ The Government of Mali also observes that Mr Al Hassan's early release could impact on victims, who are still waiting to receive reparation for the harm that they have suffered.⁹²

43. [REDACTED].⁹³ [REDACTED].⁹⁴

44. In sum, while there is information that after the sentence was imposed, Mr Al Hassan has taken significant steps for the benefit of the victims of the crimes for which he was convicted, there is also information that the victims perceive his actions negatively and consider that his release would likely have a negative impact on them and their families. The Prosecution defers to the Panel's discretion to determine whether the factor under rule 223(d) is present.

⁸⁴ [LRVs Observations on Article 110](#), para. 32. *See also* paras. 13, 25, 36.

⁸⁵ [LRVs Observations on Article 110](#), paras. 33-34. *See also* [LRVs Observations on Discontinuance](#), para. 27.

⁸⁶ [LRVs Observations on Article 110](#), paras. 35-39.

⁸⁷ [LRVs Observations on Article 110](#), para. 45, 47.

⁸⁸ [LRVs Observations on Article 110](#), paras. 42-43, 46.

⁸⁹ [LRVs Observations on Article 110](#), paras. 44, 47.

⁹⁰ [Registrar's Observations](#), para. 15. These consultations were "not extensive": *see* footnote 6.

⁹¹ [Registrar's Observations](#), paras. 14-19.

⁹² [Government of Mali Observations](#), p. 2.

⁹³ [REDACTED].

⁹⁴ [REDACTED].

*H. Rule 223(e): Individual circumstances of the sentenced person, including a worsening state of physical and mental health or advanced age*⁹⁵

45. The Prosecution has no information post-dating the Sentencing Judgment regarding the factor under rule 223(e) and the Registry's Observations do not appear to be directly relevant to this factor.

I. Whether it is appropriate to reduce Mr Al Hassan's sentence and grant him early release

46. The Prosecution recalls that "the presence of at least one factor in favour of reduction is a prerequisite to the Panel exercising its discretion to reduce a sentence".⁹⁶ Given the discretionary nature of a sentence reduction decision, the presence of a factor in favour of reduction does not mean that a sentence will be reduced. Likewise, the presence of a factor weighing against a reduction does not preclude a panel from reducing a sentence.⁹⁷ Should the Panel find that any of the factors under article 110(4)(a) and (b), and rule 223(a), (b), (d), or (e) are present, this may weigh in favour of a sentence reduction.⁹⁸ Conversely, the factor under rule 223(c) is considered a negative factor, and if present, may weigh against a reduction.⁹⁹

47. For the above reasons, and based on the information available to the Prosecution, the factors supporting a reduction of sentence under article 110(4)(a) and rule 223(a) are present. These factors weigh in favour of reducing Mr Al Hassan's sentence. The factor under rule 223(c) weighing against a reduction of sentence is also present, if Mr Al Hassan were to return to Mali. If Mr Al Hassan were to be released to a location other than Mali, the Registrar has assessed any risk of significant social instability as low. The Prosecution has no information or insufficient information in relation to the factors under article 110(4)(b), and rule 223(b) and (e) and is unable to conclude whether these factors present. In relation to the factor in rule 223(d), the Prosecution notes the observations filed by the Registry, the LRVs, and the Government of Mali and defers to the Panel's determination.

48. Assessing and weighing the factors found to be present together, the Prosecution considers that Mr Al Hassan's early and continuing willingness to cooperate with the Court's investigations and prosecutions (article 110(4)(a)), and his post-sentencing conduct showing a genuine dissociation from his crimes (rule 223(a)), outweigh the risk that Mr Al Hassan's early release would give rise to significant social instability if released to Mali (rule 223(c)).¹⁰⁰ This

⁹⁵ See also [Registrar's Observations](#), paras. 20-21; [REDACTED]; [LRVs Observations on Article 110](#), para. 41.

⁹⁶ [Al Mahdi Review Decision](#), para. 75; [Lubanga First Review Decision](#), para. 22.

⁹⁷ [Al Mahdi Review Decision](#), para. 75; [Lubanga First Review Decision](#), para. 22.

⁹⁸ [Al Mahdi Review Decision](#), para. 74; [Katanga Review Decision](#), paras. 111-112.

⁹⁹ [Al Mahdi Review Decision](#), paras. 58-59; [Lubanga First Review Decision](#), para. 22.

¹⁰⁰ By analogy, see [Al Mahdi Review Decision](#), para. 75. See also paras. 58-59.

also takes into account that the level of risk of significant social instability resulting from Mr Al Hassan's release to Mali is unclear and difficult to predict. As a result, the Prosecution does not oppose Mr Al Hassan's reduction of sentence resulting in his release. To determine an appropriate location and the modalities of any such release, the Registrar may be instructed to liaise further with the Government of Mali and other States, as necessary.

J. Whether pursuant to rule 224(1) it is necessary or not to conduct a hearing

49. Rule 224(1) provides that "[f]or the application of article 110, paragraph 3, three judges of the Appeals Chamber [...] shall conduct a hearing, unless they decide otherwise in a particular case, for exceptional reasons". Thus, a hearing is not a mandatory feature of article 110 proceedings; rather a panel may, for exceptional reasons, exercise its discretion to conduct the proceedings by way of written submissions.

50. In the circumstances of these proceedings, there is no need to conduct a hearing pursuant to rule 224(1). The Appeals Chamber noted that on 28 November 2024, Mr Al Hassan had already served two thirds of the sentence imposed on him.¹⁰¹ The Defence therefore correctly submitted that the mandatory review of Mr Al Hassan's sentence under article 110 is overdue.¹⁰² Conducting the proceedings by written submissions would therefore allow the Panel to expedite its decision.

51. Additionally, by permitting the Registrar, the Government of Mali, the parties and the LRVs to file written submissions,¹⁰³ the Panel already has all relevant information before it to make a fully informed decision. While the sentenced person clearly has a strong interest in presenting information sufficient to establish the presence of factors justifying reduction of his sentence, this does not amount to a burden of proof as such. The purpose of submissions is not for the parties and participants to advocate for or against a certain position, but to provide the Panel with all relevant information, whether for or against release, and no party or participant bears any burden of proof.¹⁰⁴ Based on the written submissions requested by its order of 20 March 2025,¹⁰⁵ the Panel will thus be able to determine whether any of the factors set out in the Court's legal framework are present and, if so, whether they justify reduction of the sentence.

¹⁰¹ [Decision on Appointment of Judges](#), p. 3.

¹⁰² [ICC-01/12-01/18-2690](#) ("Defence Request"), paras. 2, 11-15.

¹⁰³ [Scheduling Order](#). The Prosecution and the Defence also had an opportunity to address the observations made by the Registry, the LRVs and the Government of Mali in their own submissions.

¹⁰⁴ [Al Mahdi Review Decision](#), para. 17; [Katanga Review Decision](#), para. 21; [Lubanga First Review Decision](#), para. 32.

¹⁰⁵ [Scheduling Order](#).

IV. Conclusion

52. Weighing together the information on the factors assessed to be present, the Prosecution does not oppose Mr Al Hassan's reduction of sentence resulting in his release. To determine an appropriate location and the modalities of any such release, the Registrar may be instructed to liaise further with the Government of Mali and other States, as necessary.

53. In the circumstances of the article 110 proceedings in this case, there is no need to conduct a hearing pursuant to rule 224(1).



Mame Mandiaye Niang, Deputy Prosecutor

Dated this 11th day of July 2025
At The Hague, The Netherlands