

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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No.: ICC-01/12-01/18
Date: 16 February 2026

**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 "Prosecution's response to 'Defence Application for Full Commutation and Release, pursuant to Rule 224(3) of the Rules of Procedure and Evidence', " 9 February 2026, ICC-01/12-01/18-2763-Conf

Source: Office of the Prosecutor

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V43

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I. Introduction

1. On 23 July 2025, three Judges of the Appeals Chamber (the “Panel”), issued its decision on the review concerning reduction of sentence of Mr Al Hassan pursuant to article 110(3).¹ In its First Review Decision, the Panel reduced Mr Al Hassan’s original sentence by 12 months, setting the date of completion of his sentence to 28 March 2027.²

2. On 27 January 2026, Mr Al Hassan filed an application pursuant to rule 224(3), requesting the Panel to fully commute his sentence and to order his immediate release due to a significant change in circumstances since the First Review Decision,³ namely:

- [REDACTED];
- [REDACTED];
- Mr Al Hassan has obtained a concrete offer of employment [REDACTED];
- Mr Al Hassan has provided funds directly to the Trust Fund for Victims (“TFV”) and a signed commitment concerning future cooperation with the TFV, and has taken steps to facilitate the reparations process;
- Mali expressed its intention to withdraw from the ICC Statute; and
- Mr Al Hassan has served 94 months—which is over $\frac{3}{4}$ of his original sentence and almost $\frac{4}{5}$ of his reduced sentence—in a pre-conviction detention unit that is geographically remote from his family and community. [REDACTED].

3. The Prosecution agrees that [REDACTED],⁴ [REDACTED],⁵ [REACTED] Mr Al Hassan’s concrete offer of employment [REDACTED],⁶ constitute a significant change in circumstances within the meaning of rule 224(3), affecting the factors under rules 223(b) and (c).

4. Consistent with its position in the Panel’s first review of Al Hassan’s sentence,⁷ the Prosecution does not oppose Mr Al Hassan’s reduction of sentence resulting in his release.

II. Confidentiality

5. Pursuant to regulation 23 *bis*(2) of the Regulations of the Court, the Prosecution files these submissions confidentially, since they respond to the Request and refer to other information

¹ ICC-01/12-01/18-2743-Conf and ICC-01/12-01/18-2743-Red (“[First Review Decision](#)”).

² [First Review Decision](#), para. 113.

³ ICC-01/12-01/18-2758-Conf (“[Request](#)”) and Annexes A-K.

⁴ [Request](#), para. 12; [Annex K](#).

⁵ [Request](#), paras. 10-11; [Annex F](#); *see also* [Annex K](#) referring to the fact that [REDACTED].

⁶ [Request](#), para. 12; [Annex G](#).

⁷ ICC-01/12-01/18-2719-Corr-Red (“[Prosecution Submissions](#)”), para. 52.

that is subject to the same classification. A public redacted version of these submissions will be filed once a public redacted version of the Request is available.

III. Submissions

6. Mr Al Hassan is entitled to make this Request. Rule 224(3) provides that “[i]n case of a significant change in circumstances, [the] three judges may permit the sentenced person to apply for a review [of his sentence] within the three-year period or such shorter period as may have been set by the three judges”. In the *Lubanga* case the review panel confirmed that the convicted person has a “right under rule 224(3) [...] to apply for a new review of his sentence in case of a significant change in circumstances”.⁸

7. Mr Al Hassan’s arguments are limited to the impact that the changed circumstances have on the Panel’s prior assessment of the factors under rule 223(b), (c) and (e).⁹ The Prosecution will therefore confine its analysis to those factors.

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

8. 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 addressed during sentence review proceedings.¹⁰ In its Sentencing Judgment, the Trial Chamber 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.” The Chamber declined to find mitigating circumstances on this basis.¹¹

9. When assessing the factor under rule 223(b) in its First Review Decision, the Panel considered Mr Al Hassan’s strong family ties, as well as his plans [REDCATED]. It noted that Mr Al Hassan had indicated that he did not wish to return to Mali, [REDACTED]. [REDCATED].¹² When weighing this with other relevant circumstances, the Panel held that the information received did not allow it to determine whether there was a prospect of resocialisation and successful resettlement. However, it noted that the situation on the ground was unstable, that Mr Al Hassan’s preferences were unsettled and that some victims opposed his early release.¹³

⁸ ICC-01/04-01/06-3375 (“[Lubanga Second Review Decision](#)”), para. 95.

⁹ [Request](#), para. 21.

¹⁰ ICC-01/04-01/07-3615 (“[Katanga Review Decision](#)”), para. 57.

¹¹ ICC-01/12-01/18-2662 (“[Sentencing Judgment](#)”), para. 129. *See also* paras. 125-128.

¹² [First Review Decision](#), para. 63.

¹³ [First Review Decision](#), para. 105.

10. Since the First Review Decision, there has been a significant change in circumstances with respect to the factor under rule 223(b). [REDACTED]—[REDACTED] his ability to engage in gainful employment, [REDACTED], significantly enhance the prospects of his resocialisation and successful resettlement [REDACTED]. [REDACTED].¹⁴ The Prosecution is unable to comment on the impact [REDACTED] might have on the victims [REDACTED]. [REDACTED].

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

11. In the First Review Decision, the Panel observed that this is a negative factor and, if found to be present, may weigh against a reduction of sentence.¹⁵ 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.¹⁶

12. The Panel observed that Mali had explicitly stated that Mr Al Hassan's early release would lead to significant social instability. In addition, it noted the concerns raised by the victims about the possibility of Mr Al Hassan returning to Mali. On the other hand, the Panel noted that the Registry had indicated that there was no indication that the early release of Mr Al Hassan "would give rise to significant social instability" in Mali or elsewhere, [REDACTED].¹⁷ [REDACTED].¹⁸ The Panel noted that it was not possible to provide a definitive assessment in this regard, but highlighted the statement by Mali and the view expressed by a significant number of victims indicating that there could be a risk of significant social instability should Mr Al Hassan be granted early release.¹⁹

13. Since the First Review Decision, there has been a significant change in circumstances with respect to rule 223(c). [REDACTED]—[REDACTED]—[REDACTED]. [REDACTED].

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

¹⁴ See ICC-01/12-01/18-2702 ("Registrar's Observations"), para. 6.

¹⁵ [First Review Decision](#), para. 73 citing to ICC-01/12-01/15-434-Red3 ("[Al Mahdi Review Decision](#)"), para. 58.

¹⁶ [Katanga Review Decision](#), para. 74; [Al Mahdi Review Decision](#), para. 58. See also [First Review Decision](#), para. 73.

¹⁷ [First Review Decision](#), para. 74.

¹⁸ [First Review Decision](#), para. 75.

¹⁹ [First Review Decision](#), para. 106.

14. In its First Review Decision, the Panel found that this factor was present on the basis that the health [REDACTED] had deteriorated, which, coupled with the worsening security situation, caused a change in his responsibility vis-à-vis his family.²⁰

15. Mr Al Hassan now argues that the passage of time constitutes a further significant change in his individual circumstances. The Prosecution does not agree that the fact that Mr Al Hassan's remaining sentence is limited;²¹ that he has not seen his family for some time;²² and that he has spent his sentence at the Detention Centre of the Court and subject to its programs,²³ per se constitute a significant change in Mr Al Hassan's individual circumstances within the meaning of rule 223(e).

(iv) *Whether it is appropriate to reduce Mr Al Hassan's sentence and grant him early release*

16. 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".²⁴ 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.²⁵ 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.²⁶ Conversely, the factor under rule 223(c) is considered a negative factor, and if present, may weigh against a reduction.²⁷

17. In the *Lubanga* case, the panel held that a second review of sentence is limited to the consideration of whether there has been any significant change in circumstances since the date of the first sentence review decision.²⁸ However, if a panel finds that there is a significant change in circumstances, an assessment whether it is appropriate to reduce a sentence should not be made in isolation, but the panel should weigh and balance those changed circumstances in light of its previous findings on other factors under article 110(4) and rule 223.

²⁰ [First Review Decision](#), para. 96; *see also* para. 107.

²¹ [Request](#), para. 38.

²² [Request](#), para. 39.

²³ [Request](#), para. 40.

²⁴ [Al Mahdi Review Decision](#), para. 75; [Lubanga First Review Decision](#), para. 22.

²⁵ [Al Mahdi Review Decision](#), para. 75; [Lubanga First Review Decision](#), para. 22. [First Review Decision](#), para. 102.

²⁶ [Al Mahdi Review Decision](#), para. 74; [Katanga Review Decision](#), paras. 111-112.

²⁷ [Al Mahdi Review Decision](#), paras. 58-59; [Lubanga First Review Decision](#), para. 22.

²⁸ [Lubanga Second Review Decision](#), para. 30.

18. Weighing the significantly changed circumstances with respect to the factors under rules 223(b) and rule 223(c) together with the Panel's previous findings with respect to the factors under article 110(4)(a),²⁹ rules 223(a),³⁰ (d)³¹ and (e),³² the Prosecution does not oppose Mr Al Hassan's reduction of sentence resulting in his release.

IV. Conclusion

19. Considering the significantly changed circumstances with respect to the factors under rules 223(b) and rule 223(c), and consistent with its position during the first sentence review, the Prosecution does not oppose Mr Al Hassan's reduction of sentence resulting in his release.



Mame Mandiaye Niang, Deputy Prosecutor

Dated this 16th day of February 2026
At The Hague, The Netherlands

²⁹ [First Review Decision](#), paras. 30-37.

³⁰ [First Review Decision](#), paras. 48-53.

³¹ [First Review Decision](#), paras. 86-88.

³² [First Review Decision](#), paras. 95-97.