

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **12 May 2026**

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

Before: Judge Luz del Carmen Ibáñez Carranza, Presiding
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 Redacted version of “Defence Request for Leave to Reply to OPCV”, 18
February 2026, ICC-01/12-01/18-2772-Conf**

Source: Defence for Mr Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud

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

☒ The Office of the Prosecutor

☒ Counsel for the Defence

Al Hassan Defence Team

☒ Legal Representatives of the Victims

☐ Legal Representatives of the Applicants

☐ Unrepresented Victims

☐ Unrepresented Applicants
(Participation/Reparation)

☒ The Office of Public Counsel for Victims

☐ The Office of Public Counsel for the Defence

☐ States' Representatives

☐ Amicus Curiae

REGISTRY

Registrar

Osvaldo Zavala Giler

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and Reparations Section

☐ Other

I. Introduction

1. Pursuant to Regulation 24(5) of the Regulations of the Court, the Defence for Mr Al Hassan respectfully seeks leave to file a concise reply in relation to two discrete issues arising from the ‘Submissions on the “Defence Application for Full Commutation and Release, pursuant to Rule 224 (3) of the Rules of the Procedure and Evidence”’, filed by the Office of Public Counsel for the Victims (‘OPCV’) on 13 February 2026 (‘OPCV Submissions’).¹ The two issues could not have been anticipated or raised in the initial Rule 224(3) application for reasons beyond the control of the Defence.
2. The present request has been filed on a confidential basis because it cites information from confidential filings.

II. Procedural History

3. On 5 June 2025, the OPCV was appointed by Trial Chamber X to represent the interests of four victims, who were also [REDACTED], in connection with reparations proceedings.² The OPCV was not granted standing to present submissions on behalf of the general interests of victims or to otherwise act as an *amicus*.
4. On 27 August 2025, the OPCV filed its observations on reparations. The OPCV filed its observations on reparations on 27 August 2025. These observations noted that their two [REDACTED] clients [REDACTED].³
5. On 27 January 2026, the Defence for Mr Al Hassan filed an application for full commutation of sentence and release, pursuant to Rule 224(3) of the Rules of Procedure and Evidence (‘the Rule 224(3) Application’). The filing was notified to the original participants in the Article 110 proceedings.⁴
6. On 5 February 2026, the OPCV sought access to the Rule 224(3) application and leave to file observations in relation to the views of the four victims represented by the OPCV.⁴
7. On 12 February 2026, the Appeals Chamber granted the OPCV request.⁵
8. On 13 February 2026, the OPCV filed their ‘Submissions on the “Defence Application for Full Commutation and Release, pursuant to Rule 224 (3) of the Rules of the Procedure and Evidence”’ (‘OPCV Submissions’). The OPCV filed general observations opposing the Application, based on views and concerns set out in Observations filed previously by the

¹ [ICC-01/12-01/18-2767-Red.](#)

² [ICC-01/12-01/18-2728-Red.](#)

³ [ICC-01/12-01/18-2747-Corr-Red.](#), para. 49.

⁴ [ICC-01/12-01/18-2759-Red.](#)

⁵ [ICC-01/12-01/18-2761.](#)

Legal Representatives for Victims, who were not the clients of OPCV. Paragraph 36 of the OPCV Submissions relates to the views of their clients.⁶

9. The OPCV also recognised that Mr Al Hassan’s provision of financial sums to the Trust for Victims was “tangible” and “meaningful” but queried whether it could be used for victims in this case.⁷
10. Subsequently, the OPCV provided clarification to the Defence, on an *inter partes* basis, concerning the language employed in paragraph 36 of the OPCV Submissions. Namely, the OPCV clarified that the words “they” and “them” used in this paragraph should be understood in the singular (non-binary) sense, rather than referring to plural individuals. This clarification was addressed exclusively to the Defence.
11. On 17 February 2026, the OPCV informed the Defence that it does not intend to file a corrigendum or clarification of the Submissions concerning the use of “they” and “them” to refer to a single person.
12. On 16 February 2026, the TFV filed the ‘Trust Fund for Victims’ Notification of Transfers from Mr Al Hassan’.⁸ The filing sets out the procedural history underpinning Mr Al Hassan’s undertaking to make contributions in a different, reparations-related context. The filing also specifies the dates on which the transfers were first made (23 October 2025, [REDACTED]) and the date on which sum total of transfers reached the amount promised during the reparations hearing (9 January 2026).
13. Although this filing was submitted in the *Al Hassan* case record, it was filed before Trial Chamber X and not the Panel.

III. Submissions

First Issue: Paragraph 36 of the OPCV Submissions

14. Paragraph 36 of the OPCV Submissions currently generate the impression that the views outlined therein should be attributed to more than one person, despite the OPCV bilaterally clarifying that this is not the case. It is in the interests of justice for this to be clarified on the Court record. The Defence was also unable to anticipate this issue in its Rule 224(3) Application as it arises exclusively from the OPCV response and subsequent clarification.
15. It is in the interests of justice to approve correction requests where the requested correction ensures the accuracy of the record before the Chamber and thus ensures that the Chamber

⁶ [REDACTED]

⁷ [ICC-01/12-01/18-2767-Red](#), para. 45.

⁸ [ICC-01/12-01/18-2770-Red](#).

is best placed to render an informed decision of the matters before it.⁹ Since the underlying views of the victims have not been filed in the record, the Panel does not have the means to independently assess the factual accuracy of the language. The Panel is thus wholly dependent on the small extracts set out in paragraph 36 of the OPCV Submissions.

16. The OPCV indicated that they did not intend to raise this issue with the Panel by way of a corrigendum or clarification. A reply is the only vehicle by which the Defence can bring this matter to the attention of the Panel for its due consideration. Given that the OPCV confirmed that the words “they” and “them” in paragraph 36 were “intended in a singular (non-binary) sense”, this clarification is also not reasonably capable of dispute. If leave is granted, the Defence can file immediately, addressing the issue in no more than one paragraph.

Second Issue: The TFV Regulations and modalities of detention unit transfers

17. The OPCV Submissions rely on Regulation 27 of the Regulations of the Trust Fund for Victims and assert that Mr Al Hassan’s contribution to the TFV cannot be considered as a contribution to reparations because the reparations order has not yet been issued. The OPCV further accuses the Defence of “misrepresent[ing] the situation”.¹⁰
18. Since Regulation 27 of the Regulations of the Trust Fund for Victims concerns the mandate of the TFV, it was not raised by the Defence in the Rule 224(3) Application, and as such, it was also not an issue that was predictable. Indeed, the lack of certainty on this point is also highlighted by the TFV’s recent filing.¹¹
19. At the time of submission of the Rule 224(3) Application, the Defence also lacked the means to pre-empt the aspersions raised by the OPCV by filing independent corroboration concerning the dates and modalities of the detention unit transfers. Due to the particularities of the detention unit, Mr Al Hassan does not receive [REDACTED].
20. There is therefore good cause to grant the Defence leave to reply for the discrete purpose of placing the information as set out in the TFV’s filing before the Panel. This information is probative to the Panel’s assessment of the voluntary and unconditional nature of Mr Al

⁹ [ICC-01/05-01/13-2235](#), para. 11.

¹⁰ [ICC-01/12-01/18-2767-Red](#), para. 45.

¹¹ [ICC-01/12-01/18-2770-Red](#), para. 11 : “In the absence of a reparations order at the time the Transfers were received by the TFV, these may be recorded as voluntary contributions;14 however, given that the source of the funds is a person convicted before the Court, whose liability towards victims is under consideration as part of the reparation proceedings, the Transfers may alternatively be characterised as resources from a convicted person.”

Hassan's actions. The TFV is an independent body, which is not engaged as a party in the current litigation. The filing contains objective technical information, which was prepared in the ordinary course of the TFV's functions. The content is not reasonably capable of dispute and is thus akin to the type of information that can be the subject of judicial notice.¹² The requested reply will thus cause no prejudice to the parties and will facilitate the ability of the Panel to reach an informed decision of the matters before it. As with the First Issue, if leave is granted, the Defence can file immediately, addressing the issue in no more than one paragraph.

IV. Relief Sought

21. For the reasons set out above, the Defence for Mr Al Hassan respectfully requests the Panel to grant leave to reply to the Two Issues identified above.



Melissa Beaulieu Lussier
Counsel for Mr Al Hassan

Dated this 12th day of May 2026
At The Hague, The Netherlands

¹²In *Bemba et al.*, the Trial Chamber determined that Article 69(6) could be used to take judicial notice of objective facts arising from the transcripts of a related case, such as the dates of witness testimony [ICC-01/05-01/13-1249](#), para. 6. Nonetheless, since the Appeals Chamber later found that Article 69(6) could not be applied to the contents of judicial records ([ICC-01/05-01/13-2159 para. 8](#)), the Defence has not sought to introduce the contents of the TFV filing through judicial notice.