

**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 “Defense’s Request for Leave to Reply”, 12 February  
2026, ICC-01/12-01/18-2766-Conf-Red**

**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. The Defence for Mr Al Hassan respectfully seeks leave to reply to new and unanticipated issues arising from the Responses of the Legal Representatives for Victims ('LRV') and the Office of the Prosecutor ('Prosecution') pursuant to Regulation 24(5) of the Regulations of the Court. Additionally, it would be in the interests of justice for the Defence to be heard on the LRV request that Mali be afforded an opportunity to be heard in relation to the question of Mr Al Hassan's release insofar [REDACTED].<sup>1</sup>

## **II. Submissions**

### *A. Procedural History*

2. On 20 March 2025, the Panel of Judges appointed by the Appeals Chamber ('the Panel') set out the timetable for observations concerning the Article 110 proceedings.<sup>2</sup> Mali was invited to file observations based on any information in its possession that could relate to Rule 223(b), (c) or (d) of the Rules of Procedure and Evidence ('Rules'), on a date that preceded the deadline for the Defence observations. The Panel also indicated that the LRV could request an extension of time for their submissions, if required for the purpose of consulting with their clients. The LRV declined to request such an extension.
3. On 3 April 2025, the Defence disclosed, to both the Prosecution and LRVs, documentation setting out Mr Al Hassan's wish to [REDACTED].<sup>3</sup> The LRV filed its observations on 11 April 2025. Mali filed its observations on 17 April 2025 and the Prosecution and Defence observations were filed on 29 April 2025.
4. In connection with Rule 223(b) of the Rules, the Prosecution averred in its observations that "[t]o the extent that Mr Al Hassan is found to be at risk on account of his interaction with the Court, appropriate measures may be required".<sup>4</sup>
5. In the context of the possibility for Mr Al Hassan's resocialisation and successful reintegration, the LRV deferred to the Registry,<sup>5</sup> which in turn, concluded that "there are prospects that he could resocialize and successfully resettle elsewhere in the region"<sup>6</sup> and further, that "Mr Al Hassan's interaction with other detained persons, staff,

---

<sup>1</sup> This filing has been filed confidentially due to citation of confidential information relating to the original application and also confidential evidence in the case file. [REDACTED].

<sup>2</sup> [ICC-01/12-01/18-2698](#)

<sup>3</sup> [REDACTED].

<sup>4</sup> [ICC-01/12-01/18-2719-Corr-Red](#), para. 31.

<sup>5</sup> [ICC-01/12-01/18-2708](#), para. 27.

<sup>6</sup> [ICC-01/12-01/18-2702](#), para. 7.

and custody officers in detention does not suggest any impediment to his resocialization.”<sup>7</sup>

6. Neither the LRV nor the Prosecution raised any issues under Rule 223(c) concerning [REDACTED]. Although the LRV were aware of Mr Al Hassan’s wish [REDACTED], the LRV observations concerning Rule 223(c) derived from victims located in Segou, Bamako and Timbuktu (three Malian locations).<sup>8</sup> The Prosecution in turn specified that it had [REDACTED],<sup>9</sup> and further endorsed the Registry’s assessment, noting that “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.”<sup>10</sup>
7. On 23 July 2025, the Panel issued its Article 110 Decision, which reduced Mr Al Hassan’s sentence by 1 year, and further directed the Registry to assist the Defence to identify a State that was willing to accept Mr Al Hassan following the conclusion of his sentence.

*B. New Issues Arising from the Responses*

8. Regulation 24(5) of the Regulations of the Court allows the parties to seek leave to reply to new issues raised in responses that could not reasonably have been anticipated or addressed in the initial filing. The ICC Appeals Chamber has affirmed the existence of a discretionary power to receive replies where it is in the interests of a fair and proper adjudication of the matter before them.<sup>11</sup> In the context of early release applications, the European Court of Human Rights has underscored the importance of transparent and consistent criteria that allow prisoners to work towards the possibility of fulfilling the criteria for early release.<sup>12</sup> It follows that if the parties or participants advance new arguments or considerations that effectively move the goal posts for obtaining release (i.e. by opposing a resettlement option that was previously deemed viable or preferable to Mali), the sentenced person should be afforded a fair and full opportunity to either explain why the goal posts should not be moved or how and why his application falls within the newly demarcated goals.
9. In line with these standards, the Defence seeks leave to reply to two issues arising from the response of the LRV and one from the Prosecution.

---

<sup>7</sup> [ICC-01/12-01/18-2702](#), para. 11.

<sup>8</sup> [ICC-01/12-01/18-2708](#), para. 28.

<sup>9</sup> [REDACTED].

<sup>10</sup> [ICC-01/12-01/18-2719-Corr-Red](#), para. 36.

<sup>11</sup> [ICC-02/18-102](#), para. 9; [ICC-02/17-206](#), para. 8.

<sup>12</sup> ECHR: *Hutchinson v United Kingdom*, [57592/08](#) para. 44, noting that prisoners are “entitled to know from the outset what they must do in order to be considered for release and under what conditions”.

*C. Mali's right to present observations concerning [REDACTED].*

10. The LRV assert that Mali should be given the right to be heard, not on the general question of a reduction of Mr Al Hassan's sentence (which Mali already addressed in 2025), but the specific issue concerning Mr Al Hassan's [REDACTED].<sup>13</sup> The LRV proposal raises profound consequences vis-à-vis the security and rights of Mr Al Hassan [REDACTED], which trigger Mr Al Hassan's right to be heard in advance.
11. [REDACTED].<sup>14</sup>
12. During the initial Article 110 proceedings, Mali was invited to present observations in relation to the question of Mr Al Hassan's reduction of sentence, which it duly did. Mali was not provided the Defence Observations nor was it afforded an opportunity to respond to these observations. The issue as to whether Mali was entitled to be informed of Mr Al Hassan's location in a future State of resettlement was therefore not addressed in litigation preceding the current Defence Rule 224(3) application.
13. Apart from constituting a 'new issue' arising from the LRV observations, it would also be in the interests of justice to afford Mr Al Hassan a right to be heard on this question. The ICC regulatory framework underscores the importance of consulting with affected individuals on disclosure issues that impact their security.<sup>15</sup> Human rights standards establish independent protections and prohibitions concerning the disclosure of information concerning individuals benefitting from [REDACTED].
14. The Defence therefore seeks leave to reply for the purpose [REDACTED].

*D. The procedural history relating to the [REDACTED]*

15. [REDACTED].<sup>16</sup>
16. [REDACTED].

*E. The situation in [REDACTED]*

17. [REDACTED].<sup>17</sup> [REDACTED]. [REDACTED],<sup>18</sup> [REDACTED].
18. [REDACTED]. The LRV submissions therefore raise a new issue that could not have been anticipated when the Defence introduced its Rule 224(3) application. It is also in

<sup>13</sup> [ICC-01/12-01/18-2762-Corr-Red](#), paras 7, 62, 70.

<sup>14</sup> [ICC-01/12-01/18-2762-Corr-Red](#), paras 35, 64.

<sup>15</sup> [Chambers Practice Manual](#), para. 25; Regulation 42(4) of the Regulations of the Court; [ICC-01/14-01/21-481-Red](#), para. 15;

<sup>16</sup> [ICC-01/12-01/18-2762-Corr-Red](#), paras 33-34.

<sup>17</sup> [ICC-01/12-01/18-2762-Corr-Red](#), paras 51, 63.

<sup>18</sup> [REDACTED].

the interests of justice to allow the Defence to address and rebut the LRV's counter-factual portrait of [REDACTED],<sup>19</sup> [REDACTED]<sup>20</sup> [REDACTED].

19. The Defence therefore seeks leave to reply for the purpose of:

- Detailing the substantial efforts undertaken by the Defence and the Registry to identify [REDACTED];
- Explaining [REDACTED]; and
- Addressing the assertion that Mr Al Hassan's [REDACTED] would generate significant social instability or a risk for victims in this case.

*F. Mr Al Hassan's [REDACTED]*

20. The Prosecution agrees that Mr Al Hassan's proposed [REDACTED].<sup>21</sup> The Prosecution also accepts that [REDACTED].<sup>22</sup> [REDACTED],<sup>23</sup> [REDACTED]. Based on a holistic assessment of the information before it, the Prosecution concludes that Mr Al Hassan's proposed resettlement in [REDACTED], where he has a concrete engagement of employment in [REDACTED], constitute a significant change in circumstances, justifying his immediate release.<sup>24</sup>

21. [REDACTED].<sup>25</sup> Given the Prosecution's ultimate position that it does not oppose Mr Al Hassan's immediate release [REDACTED].

22. [REDACTED].<sup>26</sup> [REDACTED].<sup>27</sup> [REDACTED].<sup>28</sup> [REDACTED].<sup>29</sup> [REDACTED].

23. [REDACTED].<sup>30</sup> [REDACTED],<sup>31</sup> [REDACTED], then the Defence should first be afforded a right to :

- [REDACTED];
- [REDACTED]; and
- [REDACTED].

### **III. Relief Sought**

---

<sup>19</sup> [REDACTED].

<sup>20</sup> [REDACTED].

<sup>21</sup> [REDACTED].

<sup>22</sup> [REDACTED].

<sup>23</sup> [REDACTED].

<sup>24</sup> [ICC-01/12-01/18-2763-Red](#), para. 3.

<sup>25</sup> [REDACTED].

<sup>26</sup> [REDACTED].

<sup>27</sup> [REDACTED].

<sup>28</sup> [REDACTED].

<sup>29</sup> [REDACTED].

<sup>30</sup> [REDACTED].

<sup>31</sup> Rule 81(2), (5) and (6) and Rule 82(1) of the Rules of Procedure and Evidence.

24. The Defence for Mr Al Hassan respectfully seeks leave to file a reply, addressing the issues above, within the deadline established by the Panel.

A handwritten signature in blue ink, appearing to read 'M Beaulieu Lussier', is centered on the page.

Melissa Beaulieu Lussier  
Lead Counsel for Mr Al Hassan

Dated this 12<sup>th</sup> day of May 2026  
At The Hague, The Netherlands