



**Original: English**

**No. ICC-01/12-01/15  
Date: 31 August 2021**

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

**Before: Judge Solomy Balungi Bossa, Presiding  
Judge Marc Perrin de Brichambaut  
Judge Gocha Lordkipanidze**

**SITUATION IN THE REPUBLIC OF MALI**

**IN THE CASE OF THE PROSECUTOR v. AHMAD AL FAQI AL MAHDI**

**Public document**

**Decision on the Prosecutor's request to extend the time limit for the  
Prosecution's written submissions on the review concerning reduction of  
sentence of Mr Ahmad Al Faqi Al Mahdi**

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

**The Office of the Prosecutor**  
Mr Karim A. A. Khan, Prosecutor  
Mr James Stewart

**Counsel for Mr Ahmad Al Faqi Al Mahdi**  
Mr Mohamed Aouini

**Legal Representatives of Victims**  
Mr Mayombo Kassongo

**State Representatives**  
The Republic of Mali  
The United Kingdom

**REGISTRY**

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**Registrar**  
Mr Peter Lewis

**Other**  
The Presidency

The three judges of the Appeals Chamber of the International Criminal Court,

In the review by the Court concerning reduction of sentence of Mr Ahmad Al Faqi Al Mahdi (hereinafter: “Mr Al Mahdi”) pursuant to article 110 of the Statute,

Noting the “Scheduling order for the review concerning reduction of sentence of Mr Ahmad Al Faqi Al Mahdi” of 7 July 2021 (ICC-01/12-01/15-392),

Noting further the “Decision re-scheduling the hearing before the three judges of the Appeals Chamber” of 29 July 2021 (ICC-01/12-01/15-403),

Having before them the “Prosecution’s urgent request under regulation 35(2) to extend the time limit for the Prosecution’s written submissions on the review concerning reduction of sentence of Mr Ahmad Al Faqi Al Mahdi” of 25 August 2021 (ICC-01/12-01/15-404),

*Renders* the following

## DECISION

The time limit for the Prosecutor, counsel for Mr Al Mahdi and the Legal Representative of Victims to file their respective written submissions on the review concerning reduction of sentence of Mr Al Mahdi is extended to 16h00 on Monday, 13 September 2021.

## REASONS

### I. PROCEDURAL HISTORY

1. On 7 July 2021, the three judges of the Appeals Chamber appointed for the review concerning reduction of sentence of Mr Al Mahdi issued the “Scheduling order for the review concerning reduction of sentence of Mr Ahmad Al Faqi Al Mahdi”<sup>1</sup> (the “Scheduling Order”). A hearing in this matter was scheduled for 21 and 22 September 2021 and the participants, namely, the Registry, the United Kingdom and the Republic

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<sup>1</sup> [ICC-01/12-01/15-392](#).

of Mali were invited to file by 30 August 2021 written observations on the sentence review criteria in rule 223(a) to (e) of the Rules of Procedure and Evidence (the “Rules”)<sup>2</sup> whilst Mr Al Mahdi, the Prosecutor and the Legal Representative of Victims were requested to file their written submissions, by 6 September 2021, addressing (a) the sentence review criteria in article 110(4)(a) to (c) of the Statute and rule 223(a) to (e) of the Rules and (b) the observations of the Registry, the United Kingdom and the Republic of Mali as appropriate.<sup>3</sup>

2. On 29 July 2021, following a request of the Prosecutor which was unopposed,<sup>4</sup> the three judges of the Appeals Chamber rescheduled the hearing to 12 and 13 October 2021.<sup>5</sup>

3. On 25 August 2021, the Prosecutor filed the “Prosecution’s urgent request under regulation 35(2) to extend the time limit for the Prosecution’s written submissions on the review concerning reduction of sentence of Mr Ahmad Al Faqi Al Mahdi”, requesting a seven-day extension for the filing of his written submissions (hereinafter: “Prosecutor’s Request”).<sup>6</sup>

4. On 27 August 2021 and 30 August 2021, following an order of the three judges of the Appeals Chamber,<sup>7</sup> counsel for Mr Al Mahdi and the Legal Representative of Victims responded to the Prosecutor’s Request indicating that they had no objection to

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<sup>2</sup> [Scheduling Order](#), para. 4 (a)-(b).

<sup>3</sup> [Scheduling Order](#), para. 4 (c).

<sup>4</sup> See [Prosecution observations to the ‘Scheduling order for the review concerning reduction of sentence of Mr Ahmad Al Faqi Al Mahdi’, ICC-01/12-01/15-392](#) of 19 July 2021, ICC-01/12-01/15-396; [Réponse de la Défense aux observations ICC-01/12-01/15-396 du Procureur, conformément à l’ordonnance ICC-01/12-01/15-398](#) of 26 July 2021, ICC-01/12-01/15-400; [Réponse du Représentant légal aux ‘Prosecution observations to the ‘Scheduling order for the review concerning reduction of sentence of Mr Ahmad Al Faqi Al Mahdi’, ICC-01/21-01/15-392” \(ICC-01/12-01/15-396\)](#) of 26 July 2021, ICC-01/12-01/15-401; [Responses of the Authorities of the Republic of Mali and of the United Kingdom of Great Britain and Northern Ireland to the Orders for the review concerning reduction of sentence of Mr Ahmad Al Faqi Al Mahdi, ICC-01/12-01/15-392 and ICC-01/12-01/15-398](#) of 27 July 2021, ICC-01/12-01/15-402 (hereinafter: “Registry Report”). See also Registry Report, confidential annex V, ICC-01/12-01/15-402-Conf-AnxV (Note verbale from the Republic of Mali).

<sup>5</sup> [Decision re-scheduling the hearing before the three judges of the Appeals Chamber](#), ICC-01/12-01/15-403.

<sup>6</sup> [ICC-01/12-01/15-404](#).

<sup>7</sup> [Order on the filing of a response to the Prosecutor’s urgent request to extend the time limit for the Prosecution’s written submissions on the review concerning reduction of sentence of Mr Ahmad Al Faqi Al Mahdi](#) of 26 August 2021, ICC-01/12-01/15-406.

the seven day extension sought and requested the same length of extension of time for the submission of their respective written submissions.<sup>8</sup>

## II. MERITS

5. Pursuant to regulation 35(2) of the Regulations of the Court, a Chamber may extend or reduce a time limit if “good cause” is shown.

6. The Prosecutor argues that good cause exists for an extension of time for the filing of his written submissions on the review concerning reduction of sentence of Mr Al Mahdi.<sup>9</sup> The Prosecutor submits that the current deadline for the submission of his written submissions is 6 September 2021.<sup>10</sup> However, his involvement in the case of the *Prosecutor v. Mr Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud* (hereinafter: “*Al Hassan case*”) in which hearings are scheduled to take place in the week of 30 August 2021 and the week thereafter, inhibit his ability to properly address the submissions of the Registry, the Republic of Mali and the United Kingdom which are expected in the present case on 30 August 2021.<sup>11</sup> In his view, a seven-day extension of his deadline until 13 September 2021 would allow him to “properly analyse” these submissions and “address them as appropriate” in his written submissions.<sup>12</sup> In addition, the Prosecutor contends that the extension of time is unlikely to impact the expeditiousness of the overall proceedings given the brevity of the extension sought and the re-scheduling of the hearing to 12 and 13 October 2021.<sup>13</sup> Lastly, the Prosecutor submits that should his request be granted a similar extension should be afforded to counsel for Mr Al Mahdi and the Legal Representative of Victims.<sup>14</sup>

7. At the outset, the three judges of the Appeals Chamber consider that the Office of the Prosecutor’s involvement in the *Al Hassan case* and its ongoing hearing schedule does not in and of itself constitute good cause for an extension of the time limit for his

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<sup>8</sup> [Réponse de la Défense à la requête urgente ICC-01/12-01/15-404 du Procureur, conformément à l’ordonnance ICC-01/12-01/15-406](#) of 27 August 2021, ICC-01/12-01/15-407, para. 11; Réponse du Représentant légal à la « Order on the filing of a response to the Prosecutor’s urgent request to extend the time limit for the Prosecution’s written submissions on the review concerning reduction of sentence of Mr Ahmad Al Faqi Al Mahdi » (ICC-01/12-01/15-406) of 30 August 2021, ICC-01/12-01/15-409, para. 8.

<sup>9</sup> [Prosecutor’s Request](#), para. 5.

<sup>10</sup> [Prosecutor’s Request](#), para. 1.

<sup>11</sup> [Prosecutor’s Request](#), paras 6-7.

<sup>12</sup> [Prosecutor’s Request](#), para. 7.

<sup>13</sup> [Prosecutor’s Request](#), para. 8.

<sup>14</sup> [Prosecutor’s Request](#), para. 9.

written submissions. However, when considered in light of the limited extension of time sought, its minimal impact on the rescheduled date of the hearing, the overall expeditiousness of the proceedings and the fact that the parties in this instance do not oppose the Prosecutor's Request, the three judges of the Appeals Chamber consider that good cause has been shown warranting the requested extension of time. Accordingly, the time limit for the filing of the Prosecutor's written submissions on sentence review is extended to 16h00 on Monday, 13 September 2021. The three judges of the Appeals Chamber find it appropriate to grant the same extension of time to counsel for Mr Al Mahdi and the Legal Representative of Victims so that they remain on the same filing schedule.

Done in both English and French, the English version being authoritative.



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**Judge Solomy Balungi Bossa**  
**Presiding Judge**

Dated this 31<sup>st</sup> day of August 2021

At The Hague, The Netherlands