

**Cour
Pénale
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**International
Criminal
Court**



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Date: 14 September 2018

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TRIAL CHAMBER VIII

Before:

Judge Raul C. Pangalangan, Presiding Judge

Judge Antoine Kesia-Mbe Mindua

Judge Bertram Schmitt

SITUATION IN THE REPUBLIC OF MALI

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

PUBLIC

**Public redacted version of "Monthly update report on the implementation plan"
submitted on 14 September 2018, ICC-01/12-01/15-283-Conf
with two confidential annexes**

Source:

The Trust Fund for Victims

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

Office of the Prosecutor

Counsel for the Defence

Mr Mohamed Aouini

Legal Representatives of Victims

Mr Mayombo Kassongo

Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants for

**Office of Public Counsel for
Victims**

Participation/Reparation

States' Representatives

Office of Public Counsel for the Defence

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

I. BACKGROUND

1. On 12 July 2018, Trial Chamber VIII (“Trial Chamber”) issued its decision on the Trust Fund for Victims’ (“Trust Fund”) draft implementation plan in the case of *The Prosecutor v. Ahmad Al Faqi Al Mahdi*,¹ wherein it directed the Trust Fund to submit monthly reports, starting on 15 August 2018, concerning the Trust Fund’s progress in relation to preparing an updated draft implementation plan (“Updated Implementation Plan”, or “UIP”). The Trial Chamber specified that each monthly report should contain “concrete information on the actions taken in respect of each of the reparations modalities with timelines, objectives and staffing”.²
2. On 9 August 2018, the Trust Fund filed a request for clarification in relation to the Exclusive Link Requirement (“Clarification Request”),³ which was ultimately rejected by the Trial Chamber on 31 August 2018 (“Decision on Clarification”).⁴
3. On 10 August, the Registry filed its “First Registry Report on Applications for Individual Reparations” with two confidential annexes, the first of which included the criteria for legal assessment of the Victims Participation and Reparations Section (“VPRS”).⁵
4. On 15 August 2018, the Trust Fund filed its first monthly report, including the notification relevant to the Trial Chamber’s complement request pursuant to regulation 56 of the Regulations of the Trust Fund.⁶
5. On 4 September 2018, the Defence filed its observations on the Trust Fund’s first monthly report.⁷
6. On 10 September 2018, the Registry filed its “Second Registry Report on Applications for Individual Reparations”, with a corrigendum and two confidential annexes.⁸
7. The Trust Fund hereby submits its second monthly report.

¹ Public redacted version of “Decision on Trust Fund for Victims’ Draft Implementation Plan for Reparations”, 12 July 2018, [ICC-01/12-01/15-273-Red](#) (“Decision on Draft Implementation Plan”).

² [Decision on Draft Implementation Plan](#), para. 22.

³ Request for clarification of the eligibility criteria for individual reparations awards related to economic harm, 9 August 2018, ICC-01/12-01/15-274-Conf.

⁴ Decision on TFV Request for Clarification Regarding Individual Reparations for Economic Harm, 31 August 2018, ICC-01/12-01/15-280 (“Decision on Clarification”).

⁵ First Registry Report on Applications for Individual Reparations, 10 August 2018, ICC-01/12-01/15-275.

⁶ First monthly update report on the implementation plan, 15 August 2018, ICC-01/12-01/15-277-Conf (“First Report”).

⁷ Observations de la Défense sur le rapport mensuel ICC-01/12-01/15-277-Conf du Fonds au profit des victimes, 4 September 2018, ICC-01/12-01/15-281-Conf.

⁸ Corrigendum of “Second Registry Report on Applications for Individual Reparations”, 10 September 2018, ICC-01/12-01/15-282.

II. CLASSIFICATION OF THE PRESENT SUBMISSION

8. Pursuant to regulation 23 *bis* (1) of the Regulations of the Court, the Trust Fund has classified this report confidential because it contains information related to field missions, staffing and other potentially identifying information in relation to the planning and implementation of reparations that, given the volatile security situation in Mali, could endanger potential beneficiaries. At this time, no information in the monthly report is deemed necessary to redact from the parties.⁹

III. UPDATE REPORT OF 14 SEPTEMBER 2018

Field activities

September 2018 mission

9. From 26 August until 14 October 2018, the Trust Fund's Associate Field Programme Officer ("AFPO") based in Abidjan will be temporarily based in Bamako in order to pursue contacts with the Malian authorities, UNESCO, as well as victims in Bamako and Timbuktu for purposes of collecting information for the UIP.

10. In Bamako, from 27 to 31 August 2018, the Trust Fund has held meetings with government officials, including the Ministries of Solidarity, Human Rights, Justice, Foreign Affairs and Culture. The Trust Fund's Mali-based Board member, Ms Mama Koité Doumbia, was in attendance in these meetings.

11. Government officials, in particular from the Ministries of Culture, Justice and Foreign Affairs promised to collaborate closely with the Trust Fund in the organisation of the 1 Euro Award ceremony. In general, the Ministries committed themselves to accompany the Trust Fund in its task to prepare the UIP and to implement the reparations awards.

12. Unable to travel to Timbuktu for reasons of the worsening security situation, the Trust Fund decided to hold a one-day meeting on 10 September 2018 with a select group of 15 victims in Bamako. The meeting was organised at a secure location in coordination with the Legal Representative of Victims ("LRV"), the Security Section, and the Field Office of the Registry. Amongst these victims were those responsible for the mausoleums, masons, guardians, female traders, craftswomen, craftsmen and marabouts. The objective of the meeting, conducted jointly

⁹ [Decision on Draft Implementation Plan](#), para. 22.

by the Trust Fund and the LRV, was to further involve victims in the development of the UIP, with particular attention to the collective awards.

13. The AFPO and the locally based expert met with UNESCO on 3 September 2018 to discuss the protection and maintenance plan and to identify potential activities for the relevant collective award that will complement on-going efforts with regards to the protection and maintenance of the protected buildings.

Information on upcoming missions

14. Due to the fluid political situation in Mali following the Presidential elections of 29 July 2018, the planned trip of the Executive Director of the Trust Fund to Mali has been delayed until further notice. The Trust Fund will continue to pursue discussions with the Government and UNESCO on the planning of the ceremony for the symbolic awards of €1 each.

IV. ACTIVITIES IN THE HAGUE – SCREENING PROCESS

New draft application form

15. After taking note of the Trial Chamber’s Decision on Clarification, the Trust Fund has focused its attention on the new draft application form for individual reparations.

16. The Trust Fund has finalised a first draft application form for individual reparations which is annexed to this report (“Annex I”).¹⁰ In conformity with the Decision,¹¹ this first draft is currently under review by the relevant stakeholders, including the LRV, Defence and VPRS.¹²

Collaboration with VPRS and the LRV

17. The Trust Fund would like to reiterate its gratitude towards the VPRS for its timely and valuable cooperation. Throughout this past month, both units have been in regular contact for purposes of the new draft application form for individual reparations, and to coordinate action in the field for screening and outreach purposes.¹³

¹⁰ The Trust Fund would like to reassure the Trial Chamber that the final draft document that would result after the consultations with the stakeholders would undergo proper formatting in order to be presented as a finalized product.

¹¹ [Decision on Draft Implementation Plan](#), para. 30.

¹² This document was communicated to the LRV, Defence and VPRS by email on 5 September 2018.

¹³ The Trust Fund is in regular contact with VPRS by email and phone. Most notably, the two sections held a bilateral meeting on 3 September to discuss the new draft application form in depth, and another meeting on 5 September concerning VPRS’ missions in Mali, and the common points relevant for outreach in *Al Mahdi*.

18. Close cooperation has also ensued with the LRV, mostly via email due to his deployment to Mali. As a way of example, upon his request while on mission, the Trust Fund reviewed and ultimately endorsed three “modèles d’attestation” the LRV had prepared to complement the applications for individual reparations.¹⁴

List of authorities

19. The Trust Fund annexed a list of probable experts and authorities to its Draft Implementation Plan which identified officials who may possess signatory authority within the screening process.¹⁵ In the course of the ongoing collaboration, the LRV and VPRS brought to the Trust Fund’s attention that the authorities who have certified the applications in their possession seldom coincide with the list of probable experts and authorities that the Trust Fund had prepared.

20. VPRS compiled and communicated to the Trust Fund a table of the authorities they have so far encountered while screening applications.¹⁶ Most of them, by the nature of the role they perform (e.g. police commissioner, civil servant) are inherently vested with authority to authenticate documents. The Trust Fund therefore understands that these persons possess signatory authority and wishes to add them to the list of officials it already provided. The updated list is annexed to this submission (“Annex II”).

21. By contrast, VPRS has also encountered authorities (i.e. *chefs coutumiers* and *chefs spirituels*) whose authority is not immediately obvious to the Trust Fund. The Trust Fund does not in any way challenge that traditional leaders may serve as persons of authority given the weight these figures are given by the local population.¹⁷ Rather, bearing in mind that such traditional leaders are not formally elected but often emerge spontaneously, the Trust Fund wants to make sure that the persons signing off the individual applications are indeed actually considered traditional leaders. In order to guarantee the genuine character of their function, the Trust Fund has requested the LRV to provide the background of the *chefs coutumiers* and/or

¹⁴ Email exchange of 29 August 2018.

¹⁵ Corrected version of Draft Implementation Plan for Reparations, with confidential Annex I, 20 April 2018, ICC-01/12-01/15-265-Conf.

¹⁶ Email exchange of 30 August 2018.

¹⁷ Reparations Order, 17 August 2017, ICC-01/12-01/15-236, para. 34; Second Expert Report, ICC-01/12-01/15-214-AnxII-Red2, para. 105.

spirituels and will update the annexed list in a future progress report to the Trial Chamber once the Trust Fund has taken a decision on those additional persons.¹⁸

22. A case may arise where a person vested with capacity to authenticate victim applications, and/or his family members, intends to request individual reparations. The Trust Fund does not envisage at this point a conflict of interest that would preclude a person with authority from signing off victim applications, as long as the potential beneficiary at stake is not himself or an immediate member of his family (i.e. vertical relationship).

V. ORGANISATION OF WORK

A. Staffing

23. In addition to the core team contributing to the *Al Mahdi* case,¹⁹ the Trust Fund would like to inform the Chamber that it has:

- a. [REDACTED];
- b. [REDACTED];
- c. [REDACTED]

24. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

25. [REDACTED]
[REDACTED].

Expert consultations

26. In order to complement currently available in-house expertise, the Trust Fund contacted several professionals of recognised competence in their field (e.g. transitional justice, anthropology, psychology), enquiring about their availability and willingness to respond to some

¹⁸ Meeting of 13 August 2018.

¹⁹ First Report, para. 21.

questions concerning certain aspects of the reparations in the present case. Five of the consulted experts have accepted the request and committed to respond by 16 September.

VI. CONCLUSION

27. The Trust Fund wishes to inform the Trial Chamber of its commitment to submitting a comprehensive and responsive Updated Implementation Plan by 2 November 2018, in compliance with the Trial Chamber's order. The Trust Fund is furthermore committed to promptly providing any clarification or further information requested in relation to this second monthly update report.



Pieter W.I. de Baan
Executive Director, Trust Fund for Victims

Dated this 14 September 2018

At The Hague, The Netherlands