

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

No.: **ICC-01/12-01/15**

Date of original: **16 July 2021**

Date of submission: **29 October 2025**

TRIAL CHAMBER VIII

Before: Judge Antoine Kesia-Mbe Mindua, Presiding Judge
Judge Bertram Schmitt
Judge María del Socorro Flores Liera

SITUATION IN THE REPUBLIC OF MALI

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

Public redacted version of

**Decision on the Request of the Defence of Mr Al Hassan for Access to Confidential
Material of the Legal Representative of Victims**

Decision 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 Mahdi Defence

Al Hassan Defence

☒ **Legal Representatives of the Victims**

Al Mahdi Case

☒ **Legal Representatives of the Applicants**

☒ **Unrepresented victims**

☒ **Unrepresented Applicants**

☒ **The Office of Public Counsel for Victims**

☒ **The Office of Public Counsel for the Defence**

☒ **Trust Fund for Victims**

☐ **Amicus Curiae**

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

☐ **Counsel Support Section**

☐ **Victims and Witnesses Unit**

☐ **Detention Section**

☒ **Victims Participation and Reparations Section**

☒ **Public Information and Outreach Section**

TRIAL CHAMBER VIII of the International Criminal Court hereby issues the following ‘Decision on the Request of the Defence of Mr Al Hassan for Access to Confidential Material of the Legal Representative of Victims’, in the case of *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, having regard to Articles 64(6)(c) and 68(1) of the Rome Statute (the ‘Statute’) and Regulation 23*bis* of the Regulations of the Court.

1. On 24 June 2021, the Defence for Mr Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud (the ‘Al Hassan Defence’) filed a request for access to ‘confidential filings and evidence filed by the Legal Representative of Victims’ in the current case (the ‘Request’).¹ The Al Hassan Defence argues [REDACTED],² and that the sources [REDACTED] ‘are directly relevant to lines of the Al Hassan Defence’s cross-examination concerning [REDACTED]’.³
2. The Legal Representative of Victims in the current case (the ‘LRV’) opposes the Request,⁴ arguing that (i) he did not submit any evidence in the context of the Article 65 proceedings in this case;⁵ (ii) in line with Appeals Chamber jurisprudence victims in thereparations phase may refuse disclosure of information related to them to the Defence;⁶ and (iii) the interest in protecting the victims outweighs whichever interest the Al Hassan Defence may have in the confidential material, considering, in any event, that the Al Hassan Defence has not demonstrated the relevance of its request nor how not having access to the material requested [REDACTED].⁷
3. The Trust Fund for Victims (the ‘TFV’) observes,⁸ *inter alia*, that while it defers appreciation of the relevance and scope of the Request to the Chamber, ‘the Request appears to be particularly broad’.⁹ The TFV also indicates that should the Chamber grant

¹ Request for Access to Filings in ICC-01/12-01/15, ICC-01/12-01/15-387-Conf-Exp, with confidential, *ex parte*, annex. A confidential, *ex parte*, redacted version of the Request, available also to the Trust Fund for Victims, was filed on 28 June 2021 (notified on 29 June 2021); *see also* email from the Chamber, 28 June 2021, at 14:35.

² Request, ICC-01/12-01/15-387-Conf-Exp, para. 6.

³ Request, ICC-01/12-01/15-387-Conf-Exp, para. 9.

⁴ Réponse et observations à la requête ex parte de la Défense de M. Al Hassan tendant à accéder aux soumissions dans l’affaire ICC-01/12-01/15, 30 June 2021, ICC-01/12-01/15-389-Conf-Exp (the ‘LRV Response’) (confidential redacted version filed on 7 July 2021, ICC-01/12-01/15-389-Conf-Red). *See also* email from the Chamber, 29 June 2021, at 12:00.

⁵ LRV Response, ICC-01/12-01/15-389-Conf-Red, paras 6-8.

⁶ LRV Response, ICC-01/12-01/15-389-Conf-Red, paras 10-12.

⁷ LRV Response, ICC-01/12-01/15-389-Conf-Exp, paras 13-17.

⁸ Trust Fund for Victims’ Observations in relation to Al Hassan Defence Request for Access to Filings in ICC-01/12-01/15 (ICC-01/12-01/15-387-Conf-Red), 2 July 2021, ICC-01/12-01/15-390-Conf-Exp (the ‘TFV Response’).

⁹ TFV Response, ICC-01/12-01/15-390-Conf-Exp, para. 9.

the Request, in part or in full, it would be ‘essential that the LRV be ordered to redact certain categories of information’.¹⁰

4. At the outset, the Chamber observes that due to the nature and timing of the proceedings in the current case, in accordance with Article 65 of the Statute, the procedure for victim participation and the designation of the LRV,¹¹ the submissions received by the LRV consequently relate, to a minor extent, to the participation of victims in the proceedings and, mainly, to the reparations phase of the proceedings, notably the implementation of reparations.
5. Bearing this in mind, the Chamber is of the view that the Request is overly broad. The Request fails to specify to which extent information submitted by the LRV in the current case could in fact be relevant for the Defence of Mr Al Hassan [REDACTED].
6. The Chamber considers in particular the lack of specificity of the Request as well as the scope of the submissions made by the LRV in this case, in particular bearing in mind that the relevant records in their majority relate to the reparations phase of the proceedings, including the details of the implementation process. Without further specific information from the Al Hassan Defence, as indicated, the Chamber fails to see which relevance such material could have for the Defence of Mr Al Hassan.
7. Moreover, certain information relating to the implementation of reparations in the current case, including and above all information directly relating to victims submitted by their legal representative in these proceedings, needs to remain confidential at this stage of the proceedings. The need to preserve the safety of the individuals involved as well as to safeguard the due implementation of the reparations ordered by the Chamber, in particular bearing in mind the lack of specificity of the Request, outweighs any potential interest the Al Hassan Defence may have in receiving the confidential material concerned.

¹⁰ TFV Response, ICC-01/12-01/15-390-Conf-Exp, para. 10.

¹¹ See Public redacted version of ‘Decision on Victim Participation at Trial and on Common Legal Representation of Victims’, 8 June 2016, ICC-01/12-01/15-97-Red.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

REJECTS, without prejudice, the Request.

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



Judge Antoine Kesia-Mbe Mindua, Presiding Judge



Judge Bertram Schmitt



Judge María del Socorro Flores Liera

Dated 16 July 2021

At The Hague, The Netherlands