

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

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

Date: **15 August 2018**

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, including notification of the Board of Directors’ decision on the Trial Chamber’s complement request pursuant to regulation 56 of the Regulations of the Trust Fund for Victims”

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”). 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. The Trust Fund hereby submits its first monthly report.

II. CLASSIFICATION OF THE PRESENT SUBMISSION

3. 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.³

4. Given that this update report includes notification of the Trust Fund’s Board of Directors’ (“Board”) decision on the Trial Chamber’s complement request pursuant to regulation 56 of the Regulations of the Trust Fund (“TFV Regulations”) and the public interest in this information, the Trust Fund will file in due course a public redacted version of this 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 [Decision on Draft Implementation Plan](#), para. 22.

III. UPDATE REPORT OF 15 AUGUST 2018

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

IV. RESPONSE TO THE TRIAL CHAMBER'S COMPLEMENT REQUEST

14. In regards to the Trial Chamber's instruction in relation to the Board's decision on the Trial Chamber's complement request pursuant to regulation 56 of the TFV Regulations,¹⁰ the Trust Fund hereby informs the Trial Chamber that the Board took a decision thereon at its annual meeting in May 2018.

[REDACTED]

15. In reaching its decision, the Board considered: 1) the amount of resources currently available in its reparations reserve; 2) earmarked donations secured to date for the *Al Mahdi* reparations reserves; 3) complement requests received in relation to other proceedings before the Court;¹¹ 4) ongoing criminal proceedings before the Court that may give rise to reparations awards; 5) resources necessary for its assistance mandate activities;¹² and 6) the administrative costs incurred by Trust Fund implementing partners relevant to the implementation of the reparations awards (approximately 15%), which are outside of the monetary amount of the reparations awards ordered by the Trial Chamber in its reparations order.

16. In relation to this final point, i.e. administrative costs incurred by Trust Fund implementing partners, the Trust Fund informs the Trial Chamber that the Board had previously instructed the Trust Fund Secretariat to engage with the Court in order to determine whether these costs could be included in its regular budget. The Trust Fund informs the Trial Chamber that, at present, this does not appear to be a viable option.¹³ As such, the Board subsequently decided that these costs would be allocated from the reparations reserve, thereby ensuring that, in line with the approach taken in other reparations proceedings before the Court, the full amount of reparations awarded is received by the victims in the form of concrete benefits and support through the individual and collective reparations programme.

17. Taking the above factors into consideration, the Board decided to allocate EUR 1.35 million towards the *Al Mahdi* complement request and to recover the eventual administrative costs incurred by the Trust Fund's implementing partners from the reparations reserve.

18. The Trust Fund informs the Trial Chamber that it continues to undertake fundraising activities and that the Board will, once additional resources are secured, consider a further complement to the *Al Mahdi* reparations awards with the goal of being able to provide a complement of the total amount ordered of EUR 2.7 million. The Trust Fund will keep the Trial Chamber apprised of any developments.

¹¹ Appeals Chamber, *The Prosecutor v. Thomas Lubanga Dyilo*, Annex A to Judgment on the appeals against "Decision establishing the principles and procedures to be applied to reparations" of 7 August 2012 order for reparations (amended), 3 March 2015, [ICC-01/04-01/06-3129-AnxA](#), para. 78.

¹² Final observations on reparations following the acquittal of Mr Jean-Pierre Bemba, 4 July 2018, [ICC-01/05/01/08-3648](#), paras 6-8.

¹³ The Trust Fund clarifies that this is in relation to the administrative costs borne by implementing partners. Administrative costs of activities undertaken directly by Trust Fund staff are covered by the regular budget.

V. ORGANISATION OF WORK

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹⁴ [Decision on Draft Implementation Plan](#), paras 17, 18 and 22.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



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 monthly update report.

A handwritten signature in black ink, consisting of a stylized 'P' and 'W' followed by a long horizontal stroke.

Pieter W.I. de Baan
Executive Director of the Trust Fund for Victims,
on behalf of the Board of Directors of the Trust Fund for Victims

Dated this 15 August 2018

At The Hague, The Netherlands