



Original: English

No.: ICC-01/12-01/15
Date: 10 September 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

**With Confidential Annex I and Confidential *EX PARTE* Annex II, only available
to the Legal Representative of Victims**

Second Registry Report on Applications for Individual Reparations

Source: Registry

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

Office of the Prosecutor

Ms Fatou Bensouda, Prosecutor

Counsel for the Defence

Mr Mohamed Aouini

Legal Representative of Victims

Mr Mayombo Kassongo

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

Office of Public Counsel for Victims

**Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Section

Detention Section

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

Trust Fund for Victims

Mr Pieter de Baan

I. Introduction

1. Pursuant to the instruction of Trial Chamber VIII ("Chamber") to begin forthwith the review of applications already in the record of the case of *The Prosecutor v. Ahmad Al Faqi Al Mahdi* ("Case") in accordance with the procedures set out in the Decision on the Trust Fund For Victims' Draft Implementation Plan ("Decision on the DIP")¹, the Victims Participation and Reparations Section ("VPRS") submits its second report on applications for individual reparations.

II. Procedural History

2. On 12 July 2018, the Chamber issued its Decision on the DIP by which it *inter alia* held that applicants whose applications are already on the record of the case are not required to fill in a new form, but that they should "merely provide any missing information, as requested by the VPRS and with the assistance of the LRV."² Similarly, the Chamber held that "applications received before the approval of the new form by the Chamber will be processed as such."³
3. On 10 August 2018, the Registry filed its First Report on Applications for Individual Reparations ("First Report"),⁴ covering 65 application forms for reparations out of the 139 forms already on the record of the case.⁵ The VPRS reviewed the 65 applications in accordance with the screening criteria established in the Decision on the DIP. These criteria were detailed in Annex I to the First Report ("VPRS screening criteria").⁶

¹ Trial Chamber VIII, "Decision on Trust Fund for Victims' Draft Implementation Plan for Reparations", dated 12 July 2018 and registered on 13 July 2018, ICC-01/12-01/15-273-Conf, para. 31. A public redacted version was filed on the same date: ICC-01/12-01/15-273-Red.

² *Id.*, para. 31.

³ *Ibid.*

⁴ Registry, "First Registry Report on Applications for Individual Reparations", 10 August 2018, ICC-01/12-01/15-275.

⁵ Trial Chamber VIII, "Reparations Order", 17 August 2017, ICC-01/12-01/15-236, para. 5.

⁶ Registry, Annex I to the First Registry Report on Applications for Individual Reparations, ICC-01/12-01/15-275-Conf-AnxI.

4. On 10 August 2018, the Trust Fund for Victims (“TFV”) requested clarification of the exclusive link requirement established by the Chamber for potential beneficiaries of reparations for economic harm (“TFV Request”).⁷
5. On 31 August 2018, the Chamber rejected the TFV Request as unnecessary in light of previous guidance as well as the Appeals Chamber judgment following the Reparations Order.⁸ It also acknowledged the legal criteria developed by the VPRS for its assessment in this regard.⁹

III. Classification

6. Pursuant to regulation 23 *bis*(1) of the Regulations of the Court (“RoC”), Annex I to the present filing is classified as confidential since it contains detailed information about potential beneficiaries of individual reparations which is not available to the public. Annex II is classified as confidential *ex parte* only available to the Legal Representative of Victims because it contains confidential information that may lead to the identification of victims who applied for reparations.

IV. Applicable Law

7. The Registry submits the present filing in accordance with articles 68(1) and 75 of the Rome Statute, rules 85, 94 and 98 of the Rules of Procedure and Evidence, regulation 88 of the RoC and regulations 110 and 118(2) of the Regulations of the Registry.

⁷ TFV, “Request for clarification of the eligibility criteria for individual reparations awards related to economic harm”, 10 August 2017, ICC-01/12-01/15-274-Conf, A public redacted version was filed on 15 August 2018.

⁸ Trial Chamber VIII, “Decision on TFV Request for Clarification Regarding Individual Reparations for Economic Harm”, 31 August 2018, ICC-01/12-01/15-280, paras. 6-8 and page 6.

⁹ *Id.*, para. 7.

V. Submissions

a. Applications covered by the present report

8. In accordance with the Chamber's order in the Decision on the DIP,¹⁰ the VPRS continued the review of the remaining 74 applications on the record of the case in accordance with the VPRS screening criteria, with a view to identifying any and all complete applications for which it might already issue positive or negative preliminary assessments, as per paragraphs 40 and 41 of the Decision on the DIP. An updated summary of the VPRS screening criteria applied is submitted as confidential Annex I to the present filing.¹¹ The table containing all missing information or clarification needed for the applications reviewed¹² is transmitted as confidential *ex parte* Annex II to the present document, only available to the LRV.
9. To date, VPRS concluded that none of the forms reviewed contain all the information necessary for the VPRS to issue either a positive or a negative preliminary assessment.

b. New application form for individual reparations and guidelines on how to fill in the form

10. On 21 August 2018, the VPRS sent to the TFV a proposal for the new form for individual reparations based on a first draft by the TFV, and offered to draft guidelines on how to fill it in.¹³
11. The VPRS stands ready to provide comments, if any, on the final version of the form that the TFV will prepare based on the comments from the Parties. The Section will also continue to put at the TFV's disposal its substantive and technical expertise on this matter.

¹⁰ Decision on the DIP, para. 31.

¹¹ All updated information is marked in bold type.

¹² Applications a/35140/16 and a/35144/16 are not included in this table, as they are not applications for individual reparations.

¹³ Email from VPRS to TFV on 21 August 2018 at 18.03 h.

c. Further VPRS filings

12. Immediately after the submission of the present filing, the VPRS will commence the review of 240 application forms for reparations received by the VPRS after the deadline for transmission of reparations forms to the Chamber and thus never transmitted into the record of the Case.¹⁴
13. The VPRS will continue submitting filings every 30 days with a view to keeping the Chamber informed of its progress, unless instructed otherwise by the Chamber.
14. The VPRS informed the Chamber in its First Report that it will start implementing the screening process established in the Decision on the DIP¹⁵ within the deadlines imposed by the Chamber as soon as it started receiving the missing information and/or clarifications of unclear information requested of the LRV in the Review Exercise, or new forms for reparations. To date, VPRS has not yet received any supplementary information or new forms.



Marc Dubuisson, Director of the Division of Judicial Services
on behalf of Peter Lewis, Registrar

Dated this 10 September 2018

At The Hague, The Netherlands

¹⁴ Trial Chamber VIII, "Reparations Phase Calendar", 29 September 2016, ICC-01/12-01/15-172, para. 2 (iv).

¹⁵ Decision on the DIP, paras. 36-44.