

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

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TRIAL CHAMBER VIII

Before:

**Judge Antoine Kesia-Mbe Mindua
Judge Bertram Schmitt
Judge Maria del Socorro Flores Liera**

SITUATION IN THE REPUBLIC OF MALI

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

Confidential

With 4 confidential, *ex parte* annexes, available to the LRV and the Registry

**Public redacted version of “Twenty-first update report on the updated
implementation plan”, submitted on 25 August 2021**

Source:

The Trust Fund for Victims

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

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I. BACKGROUND

1. On 12 July 2018, Trial Chamber VIII (“Trial Chamber”) issued a decision on the draft implementation plan (“Decision on the DIP”) wherein it laid down the features of the organisation of the screening process for individual applications for reparations, set 4 March 2020 as the deadline for its completion,¹ and directed the Trust Fund for Victims (“Trust Fund”) to submit monthly update reports in relation to the Trust Fund’s progress during the reparations implementation stage of the present case.² On 4 March 2019, the Trial Chamber approved the Trust Fund updated implementation plan³ and agreed to the submission of such reports at a bimonthly basis (“Decision on the UIP”).⁴
2. On 15 August 2018, 14 September 2018, 15 October 2018, 14 November 2018, 14 December 2018, 14 January 2019, 14 February 2019, 6 May 2019, 2 July 2019, 4 September 2019, 25 October 2019, 27 December 2019, 20 February 2020, 22 April 2020, 22 June 2020, 26 August 2020, 26 October 2020, 29 December 2020, and 1 March 2021, the Trust Fund filed its first,⁵ second,⁶ third⁷, fourth⁸, fifth⁹, sixth,¹⁰ seventh,¹¹

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](#), paras 35-49.

² [Decision on the DIP](#), para. 22.

³ Updated Implementation Plan, ICC-01/12-01/15-291-Conf-Exp. A confidential redacted version was notified on 7 November 2018 (ICC-01/12-01/15-291-Conf-Red). A public redacted version was filed on 22 November 2018, *see* Public redacted version of “Updated Implementation Plan”, submitted on 2 November 2018, ICC-01/12-01/15-291-Conf-Exp”, [ICC-01/12-01/15-291-Red2](#); and Lesser public redacted version of “Updated Implementation Plan” submitted on 2 November 2018 ICC-01/12-01/15-291-Conf-Exp, 14 October 2019, [ICC-01/12-01/15-291-Red3](#)

⁴ Decision on the Updated Implementation Plan from the Trust Fund for Victims, 4 March 2019, ICC-01/12-01/15-324-Conf (“Decision on the UIP”) para. 104.

⁵ First monthly update report on the implementation plan, 15 August 2018, ICC-01/12-01/15-277-Conf (“First Monthly Report”).

⁶ Second Monthly update report on the implementation plan, 14 September 2018, ICC-01/12-01/15-283-Conf, with two confidential annexes (“Second Monthly Report”).

⁷ Third monthly update report on the updated implementation plan, 15 October 2018, ICC-01/12-01/15-288-Conf.

⁸ Fourth monthly update report on the updated implementation plan, 14 November 2018, ICC-01/12-01/15-299-Conf, with four confidential annexes (“Fourth Monthly Report”).

⁹ Fifth monthly update report on the updated implementation plan including information concerning further details relevant to the Board of Directors’ complement decision, with one confidential annex, 14 December 2018, ICC-01/12-01/15-305-Conf (“Fifth Monthly Report”).

¹⁰ Sixth monthly update report on the updated implementation plan, 14 January 2019, ICC-01/12-01/15-314-Conf.

¹¹ Seventh monthly update report on the updated implementation plan, 14 February 2019, ICC-01/12-01/15-321-Conf.

eight¹², ninth¹³, tenth¹⁴, eleventh¹⁵, twelfth¹⁶, thirteenth¹⁷, fourteenth¹⁸, fifteenth¹⁹, sixteenth²⁰, seventeenth²¹, eighteenth²², nineteenth²³ and twentieth²⁴ update reports, respectively.

3. On 17 March 2020, 16 April 2020, 18 May 2020, 19 June 2020, 22 July 2020, 20 August 2020, 17 September 2020, 30 September 2020, 14 October 2020, 4 November 2020, 20 November 2020, 7 December 2020, 28 January 2021, 18 February 2021, 10 March 2021, 19 March 2021, 29 March 2021, 9 April 2021, 21 May 2021, 9 June 2021, 25 June 2021 and on 22 July 2021, the Trust Fund notified the LRV and the Defence of 12 positive administrative decisions (first batch), 79 negative administrative decisions (second batch), 82 negative administrative decisions (third batch), 75 negative administrative decisions (fourth batch), 75 negative administrative decisions (fifth batch), 75 negative administrative decisions (sixth batch), 16 negative administrative decisions (seventh batch), 76 positive administrative decisions (eighth batch), 130 positive administrative decisions (ninth batch), four positive administrative decisions (tenth batch), 32 positive administrative decisions (eleventh batch), five positive administrative

¹² Eighth update report on the updated implementation plan, 6 May 2019, ICC-01/12-01/15-321-Conf.

¹³ Ninth update report on the updated implementation plan, with one confidential, *ex parte* annex, available to the Trust Fund, 2 July 2019, ICC-01/12-01/15-332-Conf.

¹⁴ Tenth update report on the updated implementation plan, confidential *ex parte* available to the Legal Representative of Victims and the Registry, 4 September 2019, ICC-01/12-01/15-335-Conf-Exp.

¹⁵ Eleventh update report on the updated implementation plan, confidential *ex parte* available to the Legal Representative of Victims and the Registry, with one confidential, *ex parte* annex, available to the Legal Representative of Victims and the Registry, 25 October 2019, ICC-01/12-01/15-336-Conf-Exp.

¹⁶ Twelfth update report on the updated implementation plan, confidential *ex parte* available to the Legal Representative of Victims and the Registry, 27 December 2019, ICC-01/12-01/15-340-Conf-Exp.

¹⁷ Thirteen update report on the updated implementation plan, confidential *ex parte* available to the Legal Representative of Victims and the Registry, 20 February 2020, ICC-01/12-01/15-346-Conf-Exp.

¹⁸ Fourteenth update report on the updated implementation plan and response to LRV Request ICC-01/12-01/15-356-Conf-Red, 22 April 2020, ICC-01/12-01/15-358-Conf-Exp, with four confidential *ex parte* annexes, ("Fourteenth Update Report").

¹⁹ Fifteenth update report on the updated implementation plan, with three confidential, *ex parte* annexes, 22 June 2020 (notified on 23 June 2020) ICC-01/12-01/15-366-Conf. (Fifteenth Update Report).

²⁰ Sixteenth update report on the updated implementation plan, with thirteen confidential, *ex parte* annexes and one confidential annex, 26 August 2020, ICC-01/12-01/15-371-Conf. (Sixteenth Update Report)

²¹ Seventeenth update report on the updated implementation plan, confidential *ex parte* available to the Legal Representative of Victims and the Registry, with three confidential, *ex parte* annexes, 26 October 2020, ICC-01/12-01/15-375-Conf-Exp. (Seventeenth Update Report).

²² Eighteen update report on the updated implementation plan, with 1 confidential, *ex parte* annex available to the LRV and the Registry, 29 December 2020, ICC-01/12-01/15-377-Conf (Eighteenth Update Report).

²³ Nineteenth update report on the updated implementation plan, with 1 confidential, *ex parte* annex available to the LRV and the Registry, 1 March 2021, ICC-01/12-01/15-381-Conf (Nineteenth Update Report).

²⁴ Twentieth update report on the updated implementation plan and request to reclassify as public portions of the case record, with 5 confidential, *ex parte* annexes available to the LRV and the Registry, 19 May 2021, ICC-01/12-01/15-386-Conf (Twentieth Update Report and Request to Reclassify).

decisions (twelfth batch), five positive administrative decisions (thirteenth batch), 96 positive administrative decisions (fourteenth batch), five positive administrative decisions (fifteenth batch), 100 positive administrative decisions (sixteenth batch), 163 positive administrative decisions (seventeenth batch), nine positive administrative decisions (eighteenth batch), 18 positive administrative decisions (nineteenth batch), one positive administrative decision (twentieth batch), 151 positive administrative decisions (twenty-first batch), and two positive administrative decisions (twenty-second batch). All administrative decisions adopted in the reporting period have become final.

4. On 23 September 2020, upon a request from the Trust Fund,²⁵ the Trial Chamber issued a decision simplifying considerably the screening process (“Decision on Screening Process”).²⁶

5. On 17 February 2021, the Trial Chamber, upon a request from the Trust Fund,²⁷ amended the reporting schedule and setting the page limit for the report to 30 pages: accordingly, the Trust Fund is to submit update reports every three months, starting with the 20th update report due in May.²⁸

6. On 7 July 2021, upon a request from the Trust Fund,²⁹ the Trial Chamber issued a decision on the reclassification of filings and on the publicity of the case record, reclassifying to public, and directing the Trust Fund to file public redacted versions of various submissions, respectively.³⁰

II. CLASSIFICATION OF THE PRESENT SUBMISSION

7. Pursuant to regulation 23 *bis* (1) of the Regulations of the Court, the Trust Fund has classified this report as confidential for the reasons set out in the Trust Fund’s previous update reports.³¹ A public redacted version will be filed as soon as feasible.

²⁵ Trust Fund’s submission on the amendment of the screening process, 2 September 2020, ICC-01/12-01/15-372-Conf.

²⁶ Decision on the TFCV Request for amendment of the Screening Process, 23 September 2020, ICC-01/12-01/15-374-Conf.

²⁷ Request to submit update reports on the implementation of reparations every three months, 10 February 2021, ICC-01/12-01/15-379.

²⁸ Decision on the Request from the Trust Fund for Victims to Submit Update Reports Every Three Months, ICC-01/12-01/15-380.

²⁹ Twentieth Update Report and Request to Reclassify.

³⁰ Decision on the Reclassification of Filings and Order on the Publicity of the Case Record, 7 July 2021, ICC-01/12-01/15-394.

³¹ See First Monthly Report, para. 3; Second Monthly Report, para. 8.

III. UPDATE REPORT OF 25 AUGUST 2021

8. The present report covers the period from 20 May 2021 onwards.

A. Individual reparation awards

1. Collection of applications

9. The Trust Fund recalls the decision of the Trial Chamber on the deadline and the conditions set out by the Trial Chamber relevant to that deadline that have not yet been cumulatively fulfilled.³² The Trust Fund understands that the LRV is in the process of consolidating the jointly collected applications by contacting the authorities approved by the Trust Fund to attest whether the relevant applicants are descendants or were fully economically dependent on the mausoleums.

10. During the reporting period, the Trust Fund did *not* actively continue the collection of applications. At the current stage, the Trust Fund only collects those applications emanating from “residual” individuals, i.e. individuals approaching the Trust Fund or the LRV on their own initiative. As reported in the Twentieth Report, as result of the symbolic ceremony held on 30 March 2021 and as a result of the increased pace of payments of individual reparations, a number of individuals initially reluctant to submit an application approached the Trust Fund for the collection of their applications. Accordingly, a limited number of applications were collected during the reporting period by the TFV and will be transmitted shortly to the LRV.

2. Administrative decisions

11. During the reporting period, 172 decisions (all positive) were issued by the Trust Fund, and all became final within this period.

12. Of the 172 decisions adopted, 18 of the positive eligibility decisions adopted relate to the applications emanating from the fifteenth transmission of applications by the VPRS of 12 March 2021. The fifteenth transmission included 192 applications, of which 163 positive administrative decisions were adopted by the Trust Fund as its seventeenth batch of decisions. The LRV proceeded to provide information requested by the Trust Fund on 18 of the 27 incomplete applications, and, following the receipt of the requested

³² Decision on the LRV Request for Extension of Time to Submit Individual Reparations Applications, 29 April 2020, ICC-01/12-01/15-359-Conf, paras 13-15 and disposition.

information, the Trust Fund adopted 18 positive administrative decisions as its **nineteenth batch** of decisions on 21 May 2021.

13. Due to an operational error in the retrieval of the 192 applications constituting the fifteenth transmission, two of these applications were erroneously qualified as instances of double transmission. Consequently, these two applications remained pending with the Trust Fund, while two other applicants received, correctly, positive eligibility decisions associated with an incorrect application number. On 28 May 2021, the VPRS informed the Trust Fund that there had not been a double transmission but an error in the application numbers,³³ following which the Trust Fund requested from the LRV the missing documentation relevant to one of the two applications that had remained pending.³⁴ On 9 June 2021, the Board of Directors of the Trust Fund adopted one positive administrative decision as its **twentieth batch** of decisions, and corrected the application numbers associated with the two positive administrative decisions adopted on 29 March 2021, which remain valid.

14. On 10 June 2021, the Trust Fund received from the VPRS a total of 160 applications (sixteenth transmission of applications). On 25 June 2021, the Trust Fund adopted 151 positive administrative decisions as its **twenty-first batch** of decisions and requested the LRV to provide missing information on the remaining applications.

15. On 22 July 2021, the Trust Fund issued the **twenty-second batch** of decisions within 15 days of the Trial Chamber's decision granting the LRV's request for resumption of action in relation to two applicants.³⁵

16. This brings the number of decisions issued to 1208, out of which 810 are positive and 398 negative.

17. Below, statistical details of the four batches are provided.

Nineteenth batch (18 positive decisions on consolidated applications from the fifteenth transmission)

18. **Date of collection:** the relevant application forms were collected by the LRV and the TFV Secretariat during two joint missions in 2020. **Sex and age:** 10 decisions relate to female applicants, nine of whom are minors; eight decisions relate to male applicants;

³³ Email from VPRS to the Trust Fund of 28 May 2021, at 15:18.

³⁴ Emails from the Trust Fund to the LRV of 31 May 2021, at 13:07 and 17:13.

³⁵ Decision on the Request of the Legal Representative of Victims for Resumption of Action for Deceased Victims a/10283/21 and a/10293/21, 7 July 2021, [ICC-01/12-01/15-393](#).

six of whom are minors. **Type of claim and value of the award:** 16 beneficiaries were found to be direct descendants of one Saint. Therefore, they are eligible for reparations for the moral harm suffered; the amount to be awarded to each of them is [REDACTED]. One of them is found eligible also for the economic harm suffered as he was a guardian of the mausoleum, and is as well a direct descendant of the Saint buried therein; the overall amount awarded to him is [REDACTED]. One beneficiary is a direct descendant of two Saints; therefore, she is eligible for reparations for the moral harm suffered and the amount awarded to her is [REDACTED]. One beneficiary is eligible for the reparations for the economic harm suffered as he was the mason for a mausoleum; the amount awarded to him is [REDACTED]. The overall amount to be awarded to these victims is [REDACTED]. **Protected Building:** one application relates to the Bahaber Babadié mausoleum, three relate to the Ahmed Fulane mausoleum, six relate to the Sidi Mahamoud Ben Omar Mohamed Aquit mausoleum, one relates to the Alpha Moya mausoleum, and eight relate to the Sheikh Sidi Ahmed Ben Amar Arragadi mausoleum. One decision relates to both the Sidi Mahamoud Ben Omar Mohamed Aquit and the Alpha Moya mausoleums.

19. The 18 individual decisions constituting the nineteenth batch of administrative decisions are appended as an Annex to this Report.

Twentieth batch (one positive decision on a consolidated application from the fifteenth transmission and the corrected versions of two previous positive decisions)

20. **Date of collection:** the application form pending with the Trust Fund was collected by the Trust Fund during a mission in December 2020, while the other was collected by the LRV and TFV Secretariat during a joint mission in February 2020. **Sex and age:** the single positive decision adopted related to an adult, male applicant. **Type of claim and value of the award:** the beneficiary was found eligible for reparations for the economic harm suffered in relation to [REDACTED]; the overall amount of the enhanced reparation award is [REDACTED]. **Protected Building:** the decision relates to [REDACTED].

21. The individual decision and corrected versions of the two previous positive decisions constituting the twentieth batch of administrative decisions are appended as an Annex to this Report.

Twenty-first batch (151 positive decisions of the sixteenth transmission)

22. **Date of collection:** of the 160 applications transmitted by the VPRS, about 102 were collected by an intermediary between February and November 2020; about 34 were collected by the Trust Fund, of which one jointly with the LRV, during two missions in February, and in November and December 2020; and one application was collected jointly by the Trust Fund and the LRV during a mission in December 2019. 21 applications were collected in December 2020, one in April 2020, and one in July 2019, mostly by the Trust Fund. **Sex and age:** 73 decisions relate to female applicants, 7 of whom are minors; 78 decisions relate to male applicants, 10 of whom are minors. **Type of claim and value of the award:** 148 beneficiaries are found to be direct descendants of one Saint; therefore, they are eligible for reparations for the moral harm suffered and the amount awarded to each of them is [REDACTED]. Three beneficiaries are found to be direct descendants of two Saints; therefore, they are eligible for reparations for the moral harm suffered and the amount awarded to each of them is [REDACTED]. The overall amount awarded to these beneficiaries is [REDACTED]. **Protected Buildings:** of the 151 decisions, two relate to the Bahaber Babadié mausoleum, 12 relate to the Sidi Mahamoud Ben Omar Mohamed Aquit mausoleum, four relate to the Alpha Moya mausoleum, 46 relate to the Sheikh Mouhamad El Mikki mausoleum, and 90 relate to the Sidi Yahia mosque. Two decisions relate to both the Sidi Mahamoud Ben Omar Mohamed Aquit and the Alpha Moya mausoleums, while one decision relates to both the Bahaber Babadié and the Alpha Moya mausoleums.

23. The 151 individual decisions constituting the twenty-first batch of administrative decisions are appended as an Annex to this Report.

Twenty-second batch (2 positive decisions of the fifteenth transmission)

24. **Date of collection:** one application was collected by the LRV in October 2019, while the other was collected by a TFV's intermediary in February 2020. **Sex and age:** both decisions relate to male applicants. **Type of claim and value of the award:** one applicant is found eligible for reparations for both moral and economic harm suffered; he is found to be a direct descendant of one Saint; he was also the guardian of the Mausoleum of the same Saint and had three family members involved in this activity; accordingly, the overall amount awarded is [REDACTED]. One applicant is found eligible for

reparations for the moral harm suffered; he is found to be a direct descendant of one Saint; the amount awarded is [REDACTED]. The overall amount awarded to these beneficiaries is [REDACTED]. *Protected Building*: one decision relates to the Sheikh Sidi Ahmed Ben Amar Arragadi mausoleum, and the other decision to the Ahmed Fulane mausoleum.

25. The 2 individual decisions constituting the twenty-second batch of administrative decisions are appended as an Annex to this Report.

3. Notification of positive decisions, disbursement of the individual reparation awards and their modalities

26. As reported in the Twentieth Report, the Trust Fund continued the disbursement of individual awards using an alternative mechanism as a result of the impediment that arose in procuring an institution that would have been in charge of emitting payments to the beneficiaries. Considering the alternative system functions well and allows the Trust Fund to disburse the individual awards at a proper pace and having appreciated the time necessary to contract a new financial institution, the Trust Fund decided to continue using this mechanism. Accordingly, the relevant procurement process has been cancelled since.

27. During the reporting period, 411 individuals were emitted their reparation awards, including some beneficiaries having established economic harm, thereby bringing the overall number to 531 beneficiaries paid. Unfortunately, as a result of damages to the transmission antennas in Northern Mali, communication was rendered almost impossible with people residing in Timbuktu and Gao during two weeks in the months of August, thereby slowing down the process. While the situation has considerably improved, the network remains very unstable. Disbursement is on-going and expected to continue at a pace of 70 beneficiaries to be notified and paid every two weeks. Victims continued to express their gratefulness to the Court and the Trust Fund. The Trust Fund collects proof of payments for each beneficiaries and transmits them to the LRV on an ongoing basis for his information. [REDACTED].

B. Collective reparations

28. During the reporting period, progress has been made in relation to the implementation of collective reparations. The Trust Fund conveyed two meetings with the implementing partners to coordinate the launching efforts and maximise the resources

engaged. The implementing partners worked on joint action plan. Bilateral meetings with each of the implementing partners were held by the Trust Fund too.

29. In particular, with respect to the collective economic reparations, the Trust Fund approved the terms of reference of the market study to be conducted by the implementing partners prior to the launching of the collective reparations. The terms of reference were circulated at the end of July. Having received only one application, the implementing partner and the Trust Fund decided to recirculate the terms of reference to ensure additional proposals. Interested applicants could apply until 31 August 2021. The market study is expected to start mid-September 2021.

30. With regard to the collective reparations for psychological harm, the Trust Fund held several meeting with the implementing partner. As a result, the Trust Fund and the implementing partner agreed on the composition of memorialisation committees. Four committees will be created in Timbuktu: [REDACTED]. These groups were chosen as a result of the natural geographical, cultural and social proximity between those neighbourhoods. A fifth committee will be created in Bamako. Each committee will be constituted of 10 members representing young men, young women, children, older men and older women. The Trust Fund insisted on the necessity to include women. Lastly a sixth committee with representative of all these committees will be constituted and will be consist of 15 members. [REDACTED]. Communication with partners in Timbuktu was rendered particularly complex as a result of the network issues reported above.

31. With regard to the reparations for the Protected Buildings and following up on the events described in the Twentieth Update Report, the Trust Fund and the Registry Legal Office held a virtual meeting with UNESCO and engaged on the form of the contractual documents, the terms of which had been agreed by April 2021. [REDACTED].

C. SYMBOLIC REPARATIONS

32. Following the symbolic ceremony ordered as reparation award to respectively the Malian and international community, the Trust Fund is currently preparing a number of follow-up activities to achieve a greater reach and longer-lasting impact of the symbolic ceremony and thereby of the symbolic reparation award as a whole. Pursuant to Regulation 58 of the Regulations of the Trust Fund, the Trust Fund will provide the Chamber with a final financial report (in addition to the narrative report provided in the

Nineteenth Update Report) in 2022, foreseeably in the Twenty-third Update Report (that is in the first report after the closure of the budgetary year).

D. FUNDRAISING EFFORTS

33. *Norwegian Contribution*—As reported in the Twentieth Report, on 4 May 2021, the Norwegian Embassy agreed to extend the grant agreement until 1 November 2021. The individual reparation awards stem from the Norwegian funds.

34. [REDACTED] – [REDACTED].

CONCLUSION

35. The Trust Fund respectfully requests the Trial Chamber to take note of the present report. The Trust Fund stands ready to provide clarification on any information provided in the present submission or on any other issue affecting the implementation phase of reparations in the present case.



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 31 August 2021
At The Hague, The Netherlands