

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

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

Date: 2 July 2019

Date of submission: 9 September 2021

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 one confidential, *ex parte* annex, available to the Trust Fund
Public redacted version of "Ninth update report on the updated implementation
plan", 2 July 2019, ICC-01/12-01/15-332-Conf**

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

Legal Representatives of Applicants

Mr Mayombo Kassongo

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**Office of Public Counsel for
Victims**

Office of Public Counsel for the Defence

States' Representatives

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Mr Esteban Peralta Losilla

Victims and Witnesses Section

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

Other

Mr Nouhoum Sangaré

I. BACKGROUND

1. On 12 July 2018, Trial Chamber VIII issued a decision wherein it, *inter alia*, 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.¹
2. On 15 August 2018, 14 September 2018, 15 October 2018, 14 November 2018, 14 December 2018, 14 January 2019, 14 February 2019 and 6 May 2019, the Trust Fund filed its first,² second,³ third⁴, fourth⁵, fifth⁶, sixth,⁷ seventh⁸ and eighth⁹ (“Eighth Update Report”) update reports.
3. On 2 November 2018, the Trust Fund filed its updated draft implementation plan (“UIP”).¹⁰
4. On 4 March 2019, the Trial Chamber approved the UIP,¹¹ amending the reporting period to every two months.¹²
5. The Trust Fund hereby submits its ninth update 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 of 12 July 2018”), para. 22. Also at paragraph 22, the Trial Chamber specified that each monthly update report should contain “concrete information on the actions taken in respect of each of the reparations modalities with timelines, objectives and staffing”.

² First monthly update report on the implementation plan, 15 August 2018, ICC-01/12-01/15-277-Conf (“First Monthly Report”).

³ 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”).

⁴ Third monthly update report on the updated implementation plan, 15 October 2018, ICC-01/12-01/15-288-Conf.

⁵ Fourth monthly update report on the updated implementation plan, 14 November 2018, ICC-01/12-01/15-299-Conf, with four confidential annexes.

⁶ 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.

⁷ Sixth monthly update report on the updated implementation plan, 14 January 2019, ICC-01/12-01/15-314-Conf.

⁸ Seventh monthly update report on the updated implementation plan, 14 February 2019, ICC-01/12-01/15-321-Conf.

⁹ Eighth update report on the updated implementation plan, 6 May 2019, ICC-01/12-01/15-321-Conf.

¹⁰ 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.

¹¹ 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”); Public redacted version of Decision on the Updated Implementation Plan from the Trust Fund for Victims, 4 March 2019, ICC-01/12-01/15-324-Red.

¹² Decision on the UIP, paras 104, 116.

II. CLASSIFICATION OF THE PRESENT SUBMISSION

6. Pursuant to regulation 23 *bis* (1) of the Regulations of the Court, the Trust Fund has classified this report as confidential in line with the reasoning for its previous update reports.¹³ While no information in the filing is deemed necessary to redact from the parties,¹⁴ the Trust Fund has classified the annex to this report as confidential *ex parte* because of the status of the underlying document, namely that it is an internal Court document not to be shared externally (“Annex 1”). The information contained in Annex 1 does not implicate the rights of either the victims or the Defence, but rather relates solely to logistical issues due to the current security situation.

III. UPDATE REPORT OF 2 JULY 2019

A. Preliminary matters

7. As referred to in the Eighth Update Report,¹⁵ Ramadan, which took place from 6 May to 5 June 2019, as well as political changes in the Malian government impacted the Trust Fund’s ability to carry out activities in the field during the present reporting period. The Trust Fund therefore concentrated its efforts on activities that could be conducted from The Hague. Field activities are planned to resume as of 1 July 2019.

8. [REDACTED]
[REDACTED]
[REDACTED]. The Programme Manager has already assumed her duties and will ensure oversight of all activities taking place in Mali, in particular the implementation of the reparations awards in the *Al Mahdi* case. The development of a Trust Fund’s assistance programme in Mali is under consideration and will depend on the outcome of a detailed, harm-based assessment procedure within the context of the Mali situation. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

¹³ See First Monthly Report, para. 3; Second Monthly Report, para. 8.

¹⁴ Decision of 12 July 2018, para. 22.

¹⁵ Eighth Update Report, paras 8-11.

[REDACTED]

9. Regarding the security situation, the Trust Fund informs the Trial Chamber that there has been a recent serious degradation of the situation in Timbuktu. [REDACTED]

[REDACTED]

The Trust Fund wishes to express its sincere appreciation to its Registry colleagues for the proactive and helpful assistance provided over this reporting period regarding the security situation. The Trust Fund informs the Trial Chamber that the security situation in Timbuktu has unfortunately negatively impacted on the Trust Fund's mission planning, specifically resulting in the need to cancel the planned Timbuktu mission [REDACTED] (see Annex 1). As explained below, this mission will instead take place in Bamako.

10. Finally, with regard to the confirmation of charges hearing in the *Al Hassan* case, currently scheduled to occur during the week of 8 July 2019, the Trust Fund has held several coordination meetings with the relevant Registry sections regarding its field activities planned to occur during or near the time of the hearing. The Trust Fund will continue to liaise with its Registry colleagues in this regard to ensure proper coordination and that the concerns and interests of all Court actors are appropriately taken into account in the Trust Fund's planning.

B. Individual reparations awards – the screening process

11. In relation to the screening process, the Trust Fund has set up internal mechanisms and guidelines for the proper administration of the process. Specifically, the Trust Fund has prepared internal guidelines for the assessment of applications as well as a storing system of the data. Relevant guidelines for their preliminary assessments will also be communicated and discussed with the Victims Participation and Reparations Section ("VPRS") in due course.

1) *List of authorities*

12. With regard to the persons of authorities who will serve as attestors for the potential beneficiaries' applications, significant progress has been made during the present reporting period. First, the Trust Fund notes that the legal representative of the victims ("LRV") has communicated the necessary information in relation to one person that he has proposed as a person of authority, as well as providing his feedback on the list prepared by the Trust Fund. The Trust Fund is currently vetting the LRV's proposed person with its resource persons in the field, as well as continuing discussions with the LRV in regard to its list of authorities. The Trust Fund greatly appreciates the constructive manner in which it has been able to work with the LRV in relation to establishing the list of authorities. Additionally, the Trust Fund communicated the list of proposed authorities to [REDACTED]

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

2) *Training workshop for the potential authorities*

13. During the eighth and the present reporting periods, the Trust Fund deployed significant efforts to organise a joint mission to Timbuktu with the LRV for the purpose of training the persons of authorities, taking applications [REDACTED] [REDACTED] [REDACTED] and reinforcing the capacity of the intermediaries. Extensive preparations were made: *notes verbales* were sent to the Malian government [REDACTED] [REDACTED], regular consultations were held [REDACTED] [REDACTED], and intermediaries liaised with the proposed persons of authorities to ensure their availability and readiness to participate in the training.

14. While the security situation at the beginning of June was sufficiently calm to permit such a mission, as explained above, the security situation has deteriorated to an extent that it does not permit the mission to take place for the time being (*see* Annex 1). The Trust Fund, supported by the Registry, continues to monitor opportunities to organise such a mission.

15. In this regard, during the last reporting period, the Trust Fund ensured that its concerned staff completed the 'Safe and Secure Approaches in Field Environments

(SSAFE)’ training, which is now required for missions to Timbuktu and other locations outside of Bamako. This four day training was successfully completed by the Trust Fund staff, as well as the LRV and a member of his team. Therefore, should the security situation improve, the Trust Fund and LRV have ensured that they have the required certifications needed for future missions to Timbuktu. The Trust Fund is grateful to the Counsel Support Section (“CSS”) for its support in facilitating the LRV’s participation in this critical training.

16. In light of the changing security situation, the Trust Fund adjusted its planning and has decided to organise the training and application taking process of the key family members in Bamako. The logistical and financial implications of this change of plans are important and the activities will need to be spread out over a longer period. In this regard, the logistical constraints are such that it is indeed not feasible to fly more than six people at the same time to Bamako. It is also not prudent for their personal safety to extract too many [REDACTED] people at the same time from Timbuktu for a period of a few days. The training of the first group of authorities is currently planned to take place from [REDACTED] 2019. The Trust Fund has remained in regular contact with the LRV in the training planning, which is intended to be a joint LRV/Trust Fund training.

17. If the training is successful, further sessions will be organised, including with the intermediaries to reinforce their capacity, in coordination with the LRV.

C. Collective reparations

18. The Trust Fund recalls that, as set out in its Eighth Update Report, that the expressions of interest (“EOI”) for the Economic Resilience Facility and another for collective and symbolic reparations programmes for moral harm were published from 4 April to 7 May 2019, after which the EOI documents were transmitted to the Trust Fund for evaluation. In this regard, the Trust Fund informs the Trial Chamber that unfortunately the number of responses received for these EOIs were not enough to continue with the process. The Trust Fund therefore raised a request for the re-publication of both EOIs on the Court and the [REDACTED] Global Marketplace websites. The request was fulfilled on 2 July 2019 and the EOIs are currently republished for a period of four weeks, i.e. until 31 July 2019. Once the new deadline has passed, the Trust Fund will promptly begin reviewing the potential applicants against the eligibility criteria set out in the EOIs, while also continuing work on the

Request for Proposal, which will be communicated to the qualifying organisations for their bid proposals.

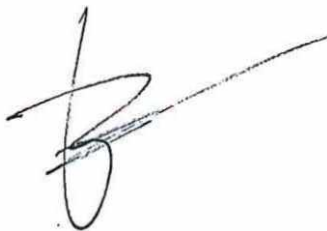
19. With regard to the reparations award relevant to the Protected Buildings, during the reporting period, the Trust Fund held meetings with UNESCO on the mechanism of engagement and agreed on the applicable framework. The Trust Fund is currently preparing a draft Terms of Reference. Further meetings are currently planned for the Programme Manager and the Bamako UNESCO office during her upcoming mission.

D. Symbolic reparations

20. During the second week of July 2019, the Executive Director, the Programme Manager, and the Trust Fund team in Bamako will meet with the newly appointed government authorities in Bamako to ensure that they are familiar with the reparations activities in the *Al Mahdi* case and to discuss further steps in relation to the organisation of the symbolic award ceremony. The Trust Fund will also endeavour to meet with the donor community, with a view to explore further fundraising opportunities, as well as with civil society organisations.

IV. CONCLUSION

21. The Trust Fund requests that the Trial Chamber take note of the present report. The Trust Fund stands ready to further clarify any information provided in this report, or any other issue affecting the implementation phase of 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 2 July 2019
At The Hague, The Netherlands