

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/12-01/15
Date: 25 September 2015

PRE-TRIAL CHAMBER I

Before: Judge Cuno Tarfusser, Single Judge

SITUATION IN THE REPUBLIC OF MALI

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

Secret

Ex parte, available only to the Registry and to Ahmad Al Faqi Al Mahdi

Decision of the Registrar on restrictions

Source: Registry

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

The Office of the Prosecutor

Counsel for the Defence

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

**The Office of Public Counsel for
Victims**

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

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Mr Patrick Craig

**Victims Participation and Reparations
Section**

Other

Mr Ahmad Al Faqi Al Mahdi

The Registrar of the International Criminal Court (the "Court");

NOTING articles 43(1) and 60(1) of the Rome Statute ("Statute"), regulations 24*bis*-1, 90, 97, 98, 99(1)(h) and (i), 100(3) and 103(1) of the Regulations of the Court ("RoC") and regulations 155(4), 168, 170, 173, 175, 180, 187, 188, 190(1), 192, 196, 220*bis* and 222(3) of the Regulations of the Registry ("RoR");

NOTING the *Mandat d'arrêt à l'encontre d'Ahmad Al Faqi Al Mahdi*, issued by Pre-Trial Chamber I on 18 September 2015¹ ("*Warrant of Arrest*");

NOTING the finding by Pre-Trial Chamber I, *inter alia*, that at the time of his arrest, Mr. Al Faqi was still a high ranking member of Ansar Dine, the mainly *touarègue* movement connected with al-Qaeda in the Islamic Maghreb, and that if he were released, he could interfere with Prosecution witnesses, either directly or through his network, in light of the influence that he still has;²

NOTING that some of the aforementioned organisations continue to be active and are known to have a vast geographical spread;

CONSIDERING that the transfer of Mr. Ahmad Al Faqi Al Mahdi to The Hague in a different penitentiary environment may be disturbing and difficult, as a result of a drastic change in his situation and his presence in a new environment;

CONSIDERING the responsibility of the Registrar for the security and good order of the Detention Centre of the Court ("Detention Centre") under regulation 90(1) of the RoC;

CONSIDERING that, without assessing the materiality of the abovementioned risks, the Registrar is of the view that, on the basis of the foregoing, the criteria for

¹ ICC-01/12-01/15-1-Secret-Exp.

² *Warrant of Arrest*, paras 5, 14, 15. See also *ibid.*, paras 7-8.

imposing the restrictions herein are met, until such time as further security assessment can be made, and that the said restrictions are proportionate to this effect;

ACCORDINGLY DECIDES AS FOLLOWS:


1. The Chief Custody Officer is instructed to inventory the personal effects of Mr Al Mahdi's upon his admission to the Detention Centre of the Court ("Detention Centre"), and to remove and securely store all items that are not allowed, as per regulation 166 of the RoR;
2. The Chief Custody Officer is also instructed to make arrangements with the medical officer for an assessment of Mr. Al Mahdi's physical and mental health at the time of his admission to the Detention Centre, in accordance with regulations 155(4) and 190(1) of the RoR;
3. Further instructs the Chief Custody Officer to monitor Mr. Al Mahdi's cell, pursuant to regulation 196(1) of the RoR, by means of video-surveillance equipment for a period of 14 calendar days from his admission date to the Detention Centre, for the maintenance of the security and good order of the Detention Centre, and authorizes the Chief Custody Officer to terminate the said surveillance before the expiration of the 14 calendar days where the Chief Custody Officer considers it no longer necessary, pursuant to regulation 196(2) of same.
4. Orders the restriction of all Mr. Al Faqi's telephone calls, save with regard only to his nuclear family, notably his wife and children, pursuant to regulation 173(5) of the RoR, and the active monitoring thereof, pursuant to regulation 175(2) of same, until such time as he makes his initial appearance before the Court under article 60 of the Statute. Mr. Al Faqi is required to cooperate with the Registry and, during the said telephone communication, to only use a language that the Registry

deems appropriate. If necessary for the efficient and effective management of the Detention Centre, the Chief Custody Officer is to reduce the number and time of the said telephone calls. Pursuant to regulation 175(7) of the RoR, the records of the actively monitored telephone calls shall be erased after the completion of the proceedings against Mr. Al Faqi.

5. Orders the restriction of all visits, save by Counsel, by diplomatic or consular representatives and representatives, and by representatives of the independent inspecting authority, on the basis of regulation 90(1) of the RoC, and as per regulations 179(1) and 180(1) of the RoR, until such time as he makes his initial appearance before the Court under article 60 of the Statute.

6. The Chief Custody Officer is instructed to regularly review the incoming and outgoing mail and packages of Mr. Al Faqi, in accordance with regulations 169 and 170, respectively of the RoR, and to take the time necessary for a careful review.

7. The Chief Custody Officer is instructed to notify the present Decision to Mr. Al Faqi before its implementation. Mr. Faqi shall be informed of his right to file a complaint against the active monitoring of his telephone calls pursuant to regulation 175(11) of the RoR, and generally, pursuant to regulation 216*bis* of the RoR. The present Decision is also notified to the Presidency as per regulation 175(2).



Marc Dubuisson, Director Division of Judicial Services
on behalf of
Herman von Hebel, Registrar

Dated this 25 September 2015

At The Hague, The Netherlands