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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
136 confidential *EX PARTE* annexes, Registry and Legal Representative of Victims
only**

First Transmission and Report on Applications for 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
 Mr James Stewart
 Mr Gilles Dutertre

Counsel for the Defence

Mr Mohamed Aouini
 Ms Emma Sylviane Glodjinon
 Ms Judith Akebe

Legal Representative of Victims

Mr Mayombo Kassongo

Legal Representatives of Applicants**Unrepresented Victims****Unrepresented Applicants for
Participation/Reparations****Office of Public Counsel for Victims**

Paolina Massidda

**Office of Public Counsel for the
Defence****States' Representatives****Amicus Curiae****REGISTRY****Registrar**

Mr Herman von Hebel

Counsel Support Section**Victims and Witnesses Section****Detention Section****Victims Participation and Reparations
Section**

Mr Philipp Ambach

Others

Trust Fund for Victims

I. Introduction

1. The Registry hereby transmits to Trial Chamber VIII (“Chamber”) 135 applications for reparations (“Applications”) in the case of *The Prosecutor v. Ahmad Al Faqi Al Mahdi* (“Case”), together with the Registry’s report on its assessment of the Applications against the requirements of rule 85 of the Rules of Procedure and Evidence (“Assessment Report”), in accordance with the Chamber’s “Reparations Phase Calendar” (“Calendar”).¹

II. Procedural History

2. On 27 September 2016, the Chamber convicted Mr Al Mahdi of the war crime of intentionally attacking protected objects under article 8(2)(e)(iv) of the Rome Statute (“Statute”) and indicated that reparations would be addressed in due course.²
3. On 29 September 2016, the Chamber issued the Calendar, indicating that any applications for reparations must be filed by 16 December 2016.³
4. In November 2016, the Registry collected 22 applications for reparations⁴ during a mission in the field, all of which were assessed by the Registry as complete and linked to the Case.
5. On 2 and 5 December 2016 respectively, the Legal Representative of the participating victims (“LRV”)⁵ handed over to the Registry’s Victims

¹ Trial Chamber VIII, *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, “Reparations Phase Calendar”, 29 September 2016, ICC-01/12-01/15-172, para. 2 (iv).

² Trial Chamber VIII, *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, “Judgment and Sentence”, 27 September 2016, ICC-01/12-01/15-171, p. 49.

³ Trial Chamber VIII, *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, “Reparations Phase Calendar”, 29 September 2016, ICC-01/12-01/15-172, para. 2 (iv).

⁴ Including those of six participating victims (a/35000/16; a/35002/16; a/35004/16; a/35005/16; a/35006/16; a/35007/16).

⁵ The LRV, Mr Kassongo, was appointed through the following decision: Trial Chamber VIII, *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, “Decision on Victim Participation at Trial and on Common Legal Representation of Victims”, 8 June 2016, ICC-01/12-01/15-97-Red, para. 38.

Participation and Reparations Section 107 and 5 further applications for reparations, all of which were assessed by the Registry as complete and falling within the scope of the Case.

III. Classification

6. Pursuant to regulations 23bis(1) of the Regulations of the Court ("RoC"), the annexes to the present submission are classified as confidential *ex parte*, Registry and LRV only, since they contain information that may lead to the identification of victims.

IV. Applicable Law

7. The Registry submits the present report pursuant to articles 68(1) and 75 of the Statute, rules 85 and 94 of the Rules of Procedure and Evidence ("Rules"), regulation 88 of the RoC and regulation 110 of the Regulations of the Registry, and in accordance with the Calendar.

V. Submissions

(i) *Assessment criteria applied by the Registry*

8. When assessing the Applications against the requirements of rule 85 of the Rules, the Registry followed the approach described in the Registry's first report on applications for participation in the Case.⁶ The Registry notes that the victims'

⁶ Registry, *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, Annex A to "Report on Applications to Participate in the Proceedings and observations on the issue of the legal representation of victims", 1 June 2016, ICC-01/12-01/15-96.

scope of eligibility for reparations in the Case is defined by the Chamber's Judgment and Sentence ("Judgment").⁷

9. Therefore, in line with the Judgment⁸ as well as with the categorisation of victims as proposed by the Registry in its observations pursuant to the Calendar,⁹ the Registry assessed as direct victims of the crime, applicants who appear to fall under the category "faithful and inhabitants of Timbuktu". Furthermore, the Registry qualified as indirect victims those who appear to fall under the categories "people throughout Mali" and "the international community", respectively.
10. Accordingly, the Registry's Assessment Report indicates for each application whether the applicant appears to be a direct or an indirect victim.¹⁰

(ii) Transmission of the Applications in redacted form

11. In the first weeks of December, the Registry unexpectedly received a large number of applications.¹¹ Each application is required to go through an internal registration, verification and redaction process before being transmitted to the parties.¹² In particular the redaction process is time-consuming as it goes through several levels of scrutiny. The Registry therefore respectfully informs the Chamber that it has not been in a position to file the redacted versions of the Applications alongside the unredacted versions by today's date. The Registry will file the redacted versions of the Applications on 22 December 2016.

⁷ Trial Chamber VIII, *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, "Judgment and Sentence", 27 September 2016, ICC-01/12-01/15-171.

⁸ *Ibid.*, para. 80.

⁹ Registry, *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, 2 December 2016, ICC-01/12-01/15-193-AnxI-Red, para. 25.

¹⁰ The Registry notes that some victims alleged to have suffered harm, whether material or psychological, as a result of the alleged commission of the crimes of pillage and/or murder during the events. Since this harm did not appear to the Registry to be directly linked to the crime for which Mr Al Mahdi was convicted, the Registry did not include it in its Assessment Report.

¹¹ See *supra*, para. 5.

¹² The Defence and the LRV, in accordance with the decision of Trial Chamber VIII, *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, "Reparations Phase Calendar", 29 September 2016, ICC-01/12-01/15-172, footnote 3.

12. The Registry hereby submits:

- Annexes 1 to 135: confidential *ex parte*, Registry and LRV only, unredacted versions of the Applications;
- Annex 136: confidential *ex parte*, Registry and LRV only, Registry's Assessment Report.



Marc Dubuisson, Director, Division of Judicial Services,
per delegation of Herman von Hebel, Registrar

Dated this 16 December 2016

At The Hague, The Netherlands