

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 31 May 2017

TRIAL CHAMBER VIII

Before: Judge Raul C. Pangalangan, Single Judge

SITUATION IN THE REPUBLIC OF MALI

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

Public

**Decision on LRV's request for clarification of procedure applicable to newly
collected reparations applications**

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

The Office of the Prosecutor

Ms Fatou Bensouda

Mr James Stewart

Mr Gilles Dutertre

Counsel for the Defence

Mr Mohamed Aouini

Legal Representative of Victims

Mr Mayombo Kassongo

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
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

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

Others

Judge Raul C. Pangalangan, acting as Single Judge on behalf of Trial Chamber VIII ('Single Judge' and 'Chamber', respectively) of the International Criminal Court issues the following 'Decision on LRV's request for clarification of procedure applicable to newly collected reparations applications', in the case of *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, having regard to Article 75 of the Rome Statute ('Statute'), Rule 94 of the Rules of Procedure and Evidence ('Rules') and Regulation 35 of the Regulations of the Court ('Regulations').

I. Background and Submissions

1. On 29 September 2016, the Chamber issued the Reparations Phase Calendar, setting 16 December 2016 as the deadline for filing applications for reparations ('Application Deadline')¹ and 11 January 2017 as the Deadline for Submission of Additional Material.² The Chamber explicitly specified that 'the [A]pplication [D]eadline is without prejudice to whether or how these applications will be ultimately considered by the Chamber'.³
2. On 16 December 2016, the Registry transmitted 135 applications for reparations.⁴
3. On 20 March, upon two requests from the Legal Representative of Victims ('LRV'),⁵ the Single Judge authorised the LRV to file any newly collected reparation applications by the Deadline for Submission of Additional Material – which had been postponed to 24 March 2017 by way of a 19 January 2017

¹ ICC-01/12-01/15-172, para. 2(iv).

² Reparations Phase Calendar, ICC-01/12-01/15-172, para. 2(v).

³ Reparations Phase Calendar, ICC-01/12-01/15-172, para. 2(iv).

⁴ First Transmission and Report on Applications for Reparations, ICC-01/12-01/15-200 with 136 confidential, *ex parte* annexes. It is noted that redacted versions of the applications were transmitted to the Defence on 22 December 2016 (ICC-01/12-01/15-202 with 135 confidential annexes).

⁵ On 24 February 2017, the LRV filed a request for authorisation to file additional applications (*Requête du Représentant légal des victimes aux fins d'autorisation au dépôt de demandes en réparations additionnelles*, ICC-01/12-01/15-204-Red). Then, on 16 March 2017, the LRV filed a further request, seeking an extension of the deadline for submission of additional material (*Requête du Représentant légal des victimes aux fins de prorogation de délai en vertu de la Norme 35 du Règlement de la Cour*, ICC-01/12-01/15-207-Red).

decision.⁶ In the same decision, the Single Judge rejected the request for extension of the Deadline for Submission of Additional Material to 28 April 2017.⁷

4. On 18 May 2017, the LRV filed a request for clarification of the procedure in place for the filing of newly collected reparations applications ('Request').⁸ The LRV submits that the Chamber did not pronounce on such a procedure and requests that it be set up urgently and that a deadline for transmission be set.⁹
5. No responses were filed.

II. Analysis

6. On 29 September 2016, the Chamber set 16 December 2016 as the Application Deadline, namely the deadline for the submission of any reparations applications collected within that period. In the same order, the Chamber specified that the Application Deadline was 'without prejudice to whether or how these applications will be ultimately considered by the Chamber'.¹⁰ Accordingly, the procedure and deadline for submission of applications are clear from the plain text of the Reparations Phase Calendar and no further clarification is required.¹¹

⁶ Decision Appointing Reparations Experts and Partly Amending Reparations Calendar, ICC-01/12-01/15-203-Red.

⁷ Decision on LRV requests for submission of additional reparation applications and for an extension of time, ICC-01/12-01/15-209. On 24 March 2017, the Registry transmitted 4 additional applications collected by the LRV (Second Transmission and Report on Applications for Reparations, ICC-01/12-01/15-211 with five confidential, *ex parte* annexes. It is noted that redacted versions of the applications and of the supporting documents were transmitted to the Defence on 24 April 2017 (ICC-01/12-01/15-213 with five confidential annexes)).

⁸ *Requête en clarification de la procédure applicable aux nouvelles demandes en réparations*, ICC-01/12-01/15-220-Conf.

⁹ Request, ICC-01/12-01/15-220-Conf, paras 2, 13-15 and disposition.

¹⁰ Reparations Phase Calendar, ICC-01/12-01/15-172, para. 2(iv).

¹¹ It is noted that the procedure set by Trial Chamber VIII is perfectly in line with the Trial Chamber II's decision referred to in the Request, which precisely set an application deadline for newly collected applications. (Request, ICC-01/12-01/15-220-Conf, para. 14 referring to *The Prosecutor v. Germain Katanga*, Trial Chamber II, Decision on the "*Demande de clarification concernant la mise en oeuvre de la Règle 94 du Règlement de procédure et de preuve*" and future stages of the proceedings, 8 May 2015, ICC-01/04-01/07-3546-tENG).

7. Additionally, it appears that this procedure was also clear to the LRV when he sought authorisation to file applications collected after the Application Deadline, explicitly specifying that '[TRANSLATION] [he] is well aware that, in its decision ICC-01/12-01/15-172 of 29 September 2016, the Trial Chamber set to 16 December 2016 the deadline to transmit all applications for reparations'.¹²
8. To the extent that the Request can be read as a further request for extension of time of the Application Deadline, the Request equally ought to be rejected as overly broad and lacking any justification. The Single Judge recalls that, on 20 March 2017, in the decision authorising the LRV to file the reparations applications collected after the Application Deadline,¹³ he already rejected a four-week extension of time for filing said applications and supporting materials on the basis of the speculative nature of the request and of the lack of specificity of the reasons advanced.¹⁴ At this stage of the reparations proceedings, unless exceptional circumstances are shown, no further request for extension of the Application Deadline will be entertained, noting in particular that final reparations submissions are due on 16 June 2017.¹⁵

FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

REJECTS the Request; and

DIRECTS the LRV to file a public redacted version of the Request within two days of notification of the present decision.

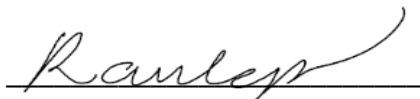
¹² *Requête du Représentant légal des victimes aux fins d'autorisation au dépôt de demandes en réparations additionnelles*, 24 February 2017, ICC-01/12-01/15-204-Red, para. 6.

¹³ Decision on LRV requests for submission of additional reparation applications and for an extension of time, ICC-01/12-01/15-209, para. 8.

¹⁴ Decision on LRV requests for submission of additional reparation applications and for an extension of time, ICC-01/12-01/15-209, para. 10.

¹⁵ Decision Granting an Extension of Time for Filing of TFV Submissions, 12 May 2017, ICC-01/12-01/15-219.

Done in both English and French, the English version being authoritative.

A handwritten signature in black ink, appearing to read 'Raul C. Pangalangan', written over a horizontal line.

Judge Raul C. Pangalangan, Single Judge

Dated 31 May 2017

At The Hague, The Netherlands