

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **15 October 2018**

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*

CONFIDENTIAL

Third monthly update report on the updated implementation plan

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

Mr Mayombo Kassongo

Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants for

**Office of Public Counsel for
Victims**

Participation/Reparation

States' Representatives

Office of Public Counsel for the Defence

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

I. BACKGROUND

1. On 12 July 2018, Trial Chamber VIII (“Trial Chamber”) issued its decision on the Trust Fund for Victims’ (“Trust Fund”) draft implementation plan in the present case,¹ wherein it directed the Trust Fund to submit monthly update reports, starting on 15 August 2018, in relation to the Trust Fund’s progress in preparing an updated draft implementation plan (“Updated Implementation Plan”). 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

2. On 15 August 2018, the Trust Fund filed its first monthly update report, including the notification relevant to the Trial Chamber’s complement request pursuant to regulation 56 of the Regulations of the Trust Fund.³

3. On 5 September 2018, the Trust Fund emailed a draft of the new application form for individual reparations (“Draft Application”) to the Legal Representative of Victims (“LRV”), the Defence and the Victims Participation and Reparations Section (“VPRS”),⁴ requesting their feedback by 14 September 2018.⁵

4. By 14 September, both VPRS and the Defence had replied by email.⁶

5. On 14 September 2018, the Trust Fund filed its monthly update report of the implementation plan (“Second Monthly Update Report”) with two confidential annexes, corresponding to a copy of the Draft Application sent to the parties and VPRS and an updated list of authorities.⁷

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 on Draft Implementation Plan”).

² [Decision on Draft Implementation Plan](#), para. 22.

³ First monthly update report on the implementation plan, 15 August 2018, ICC-01/12-01/15-277-Conf.

⁴ [Decision on Draft Implementation Plan](#), para. 30.

⁵ Email sent by the Trust Fund to the Defence counsel, the LRV team and VPRS on 5 September 2018 at 16:59.

⁶ VPRS replied to the Trust Fund on 6 September 2018 at 12:47 asking to provide comments once the form would have been amended in light of the parties’ comments. The Trust Fund agreed. The Defence responded to the Trust Fund -with VPRS and LRV on copy- on 14 September 2018 at 14:50.

⁷ Second Monthly Update report on the implementation plan, 14 September 2018, ICC-01/12-01/15-283-Conf, with two confidential annexes.

6. On 24 September 2018, the LRV filed observations on the Second Monthly Update Report and on the beneficiary screening process (“LRV Observations”).⁸
7. On 4 October 2018, after the LRV indicated that he still had comments on the Draft Application, the Trust Fund scheduled a meeting with him for 8 October 2018 to discuss this and other matters ■
8. On 5 October 2018, the Defence filed its observations on the Second Monthly Update Report (“Defence Observations”).¹⁰
9. On 8 October 2018, after having accepted the invitation,¹¹ the LRV unfortunately could not attend the scheduled meeting. 10 October 2018 was established as the new deadline for the LRV to provide comments on the Draft Application.
10. On 10 October 2018, VPRS filed its third report on applications for individual reparations.¹²
11. On 12 October 2018, the LRV sent an email to the Trust Fund with observations on the Draft Application.¹³
12. The Trust Fund hereby submits its third monthly update report, in which it will also address some of the issues raised in the LRV and Defence Observations.

II. CLASSIFICATION OF THE PRESENT SUBMISSION

13. Pursuant to regulation 23 *bis* (1) of the Regulations of the Court, the Trust Fund has classified this report confidential in line with the reasoning for its previous update reports.¹⁴ No information is deemed necessary to redact from the parties.¹⁵

⁸ Observations du Représentant légal sur le Second rapport mensuel d’activité du Fonds au profit des victimes et sur le processus de sélection des victimes aux réparations, ICC-01/12-01/15-284-Conf.

¹⁰ Observations de la Défense sur le deuxième rapport mensuel ICC-01/12-01/15-283-Conf du Fonds au profit des victimes et réponse aux observations ICC-01/12-01/15-284-Conf du représentant légal des victimes, ICC-01/12-01/15-285-Conf.

¹¹ Email sent by the LRV to the Trust Fund on 5 October at 9:46 AM.

¹² Third Registry Report on Applications for Individual Reparations, ICC-01/12-01/15-287, with confidential Annex I and confidential *ex parte* Annex II, only available to the Legal Representative of Victims (“Third Registry Report on Applications”).

¹³ Email sent by the LRV team to the Trust Fund on 12 October 2018 at 9:11 AM.

¹⁴ Public redacted version of “Monthly update report on the implementation plan, including notification of the Board of Directors’ decision on the Trial Chamber’s complement request pursuant to regulation 56 of

III. UPDATE REPORT OF 15 OCTOBER 2018

A. Field activities – Progress on Collective Reparations

14. During the period covered by this report, the Associate Field Programme Officer temporarily based in Bamako held meetings with various organisations -national and international- and local service providers with expertise in areas relevant to the implementation of foreseeable collective reparations concerning the Protected Buildings, economic and moral harm.

15. In this context, the Trust Fund is preparing an invitation for expressions of interest to pre-qualify potentially eligible service providers for selected parts of the collective reparations measures. The pre-qualified organisations will be provided with a request for proposals, once a final scope of work is established on the basis of the eventually approved Updated Implementation Plan.

B. Activities in The Hague – Screening Process

16. The Trust Fund appreciates the continued communication and cooperation with VPRS. The Trust Fund also appreciates and has also been responsive to the LRV's initiatives. For example, at the request of the latter, the Trust Fund made observations to the *modèles d'attestation* concerning *revenus* and *activités* that the LRV prepared to accompany the Draft Application.¹⁶

1) Draft Application for individual reparations

17. Activities during the present reporting period have revolved around collecting feedback on the Draft Application.¹⁷

18. The Trust Fund notes that the Defence found that the Draft Application was in conformity with the Trial Chamber's instructions and stated that it had no objections to the document,¹⁸ a remark reiterated in its Observations to the Second Monthly Update Report.¹⁹

the Regulations of the Trust Fund for Victims", [ICC-01/12-01/15-277-Red](#), para. 3; and Second Monthly Update Report, para. 8.

¹⁵ [Decision on Draft Implementation Plan](#), para. 22.

¹⁶ Email from the Trust Fund to the LRV team -with VPRS in copy- sent on 24 September 2018 at 17:43.

¹⁷ [Decision on Draft Implementation Plan](#), para. 30.

¹⁸ *Supra* para. 4.

¹⁹ Defence Observations, para. 32.

19. The Trust Fund observes that the LRV Observations contain a number of comments to the Draft Application and the screening process,²⁰ [REDACTED]

20. [REDACTED]

²⁰ LRV Observations, paras 56-72.

[REDACTED]

24. Upon approval of the application, the Trust Fund intends to develop guidelines with the assistance of VPRS³⁰ [REDACTED]

This document will contain clear instructions to ensure that the screening process is carried out in a gender-inclusive manner.³¹

[REDACTED]

2) [REDACTED]

[REDACTED]

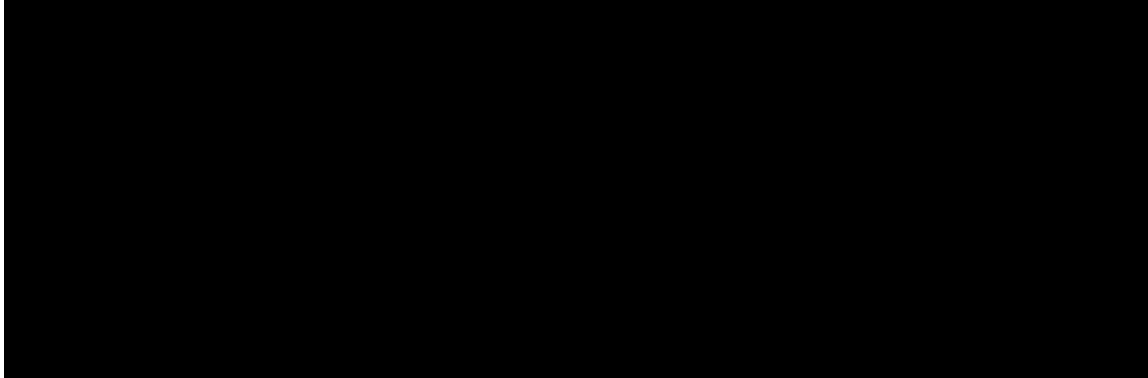
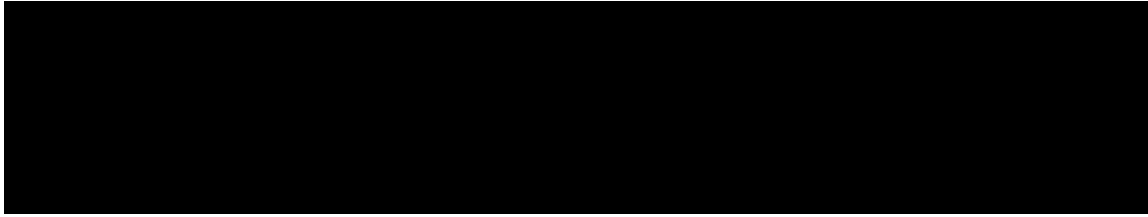
[REDACTED]

³⁰ Third Registry Report on Applications, para. 8.

³¹ [Reparations Order](#), paras 31, 34, 105.

[REDACTED]

[REDACTED]



IV. ORGANISATION OF WORK

A. Staffing

29. The staffing capacity at the Trust Fund in relation to the development and implementation of reparations awards in *Al Mahdi* has remained unchanged during the reporting period. The recruitment procedure for the P2 GTA Associate Field Programme Officer in Bamako is on-going.

B. Expert consultations

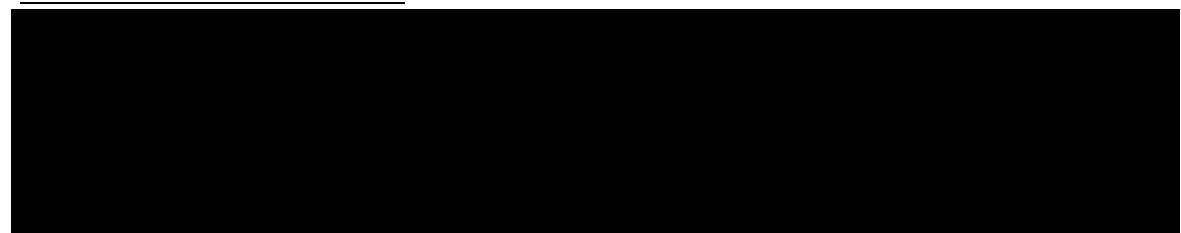
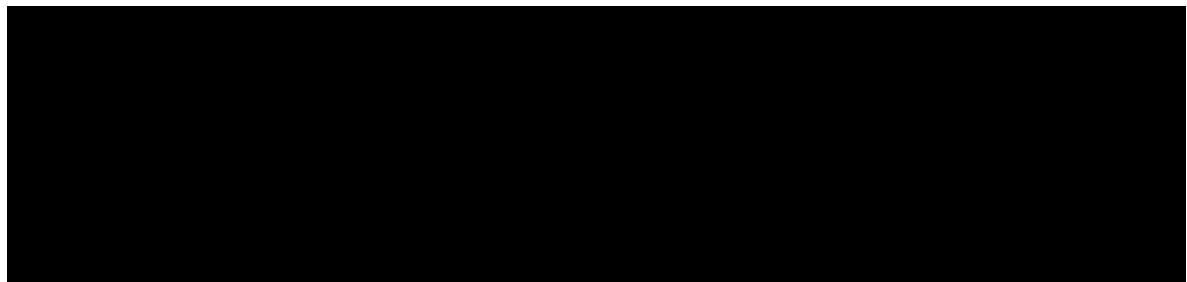
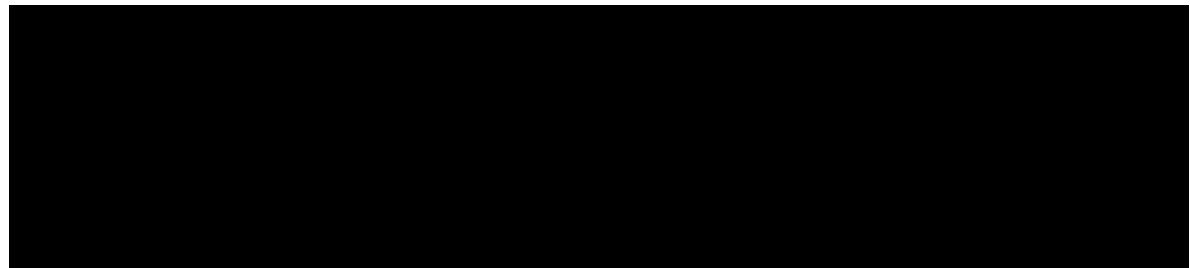
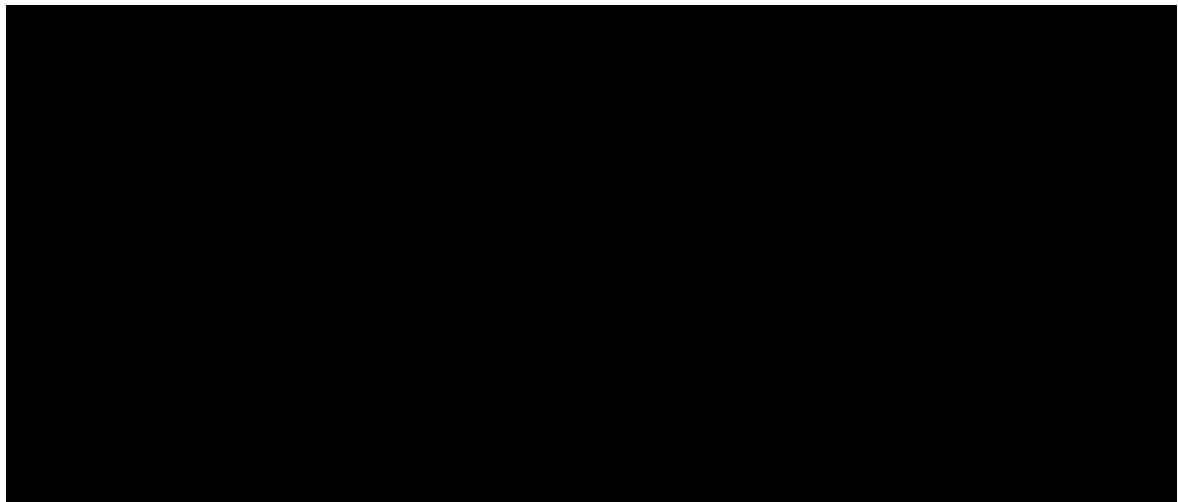
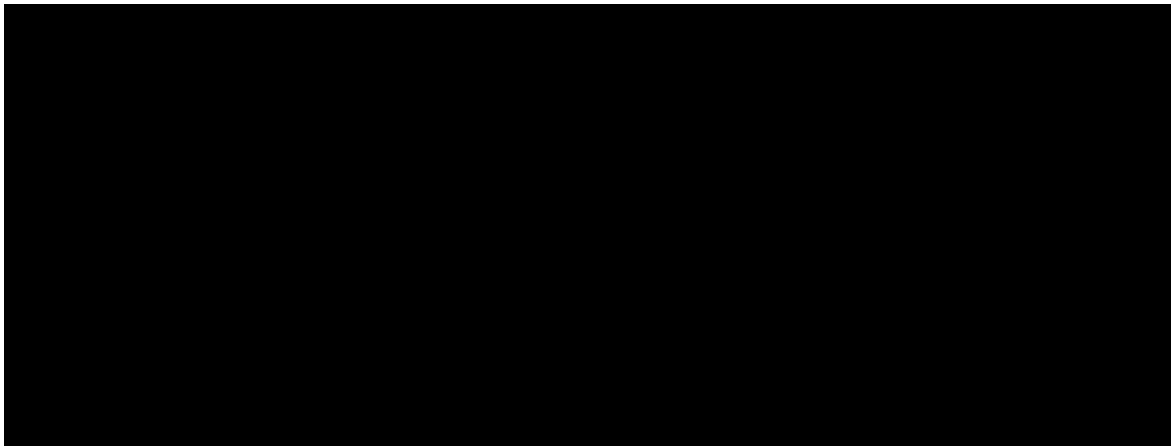
30. The Trust Fund has received the written observations of five professionals of recognised competence in, *inter alia*, the use of cultural heritage in post-conflict societies, transitional justice, psychology and international law. Their observations have provided further insights into the sensitive nature and risks of using cultural heritage in post-conflict societies, healing techniques for communities affected by armed conflict, and case-law specific to reparations for the loss of cultural heritage. Some of their observations are summarised below.

³⁶ See Defence Observations, paras 18, 24.

³⁷ Second Monthly Update Report, para. 21 (emphasis added).

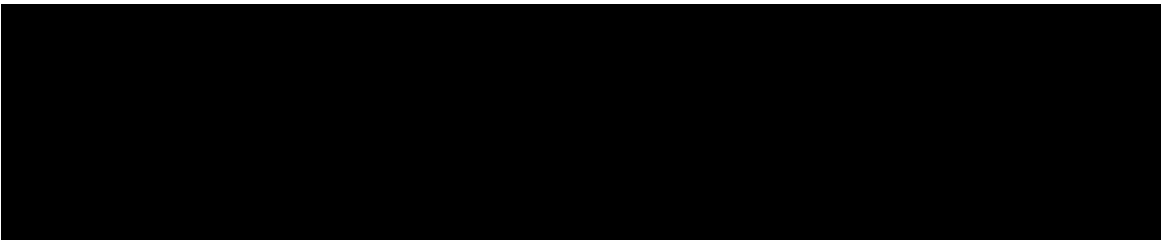
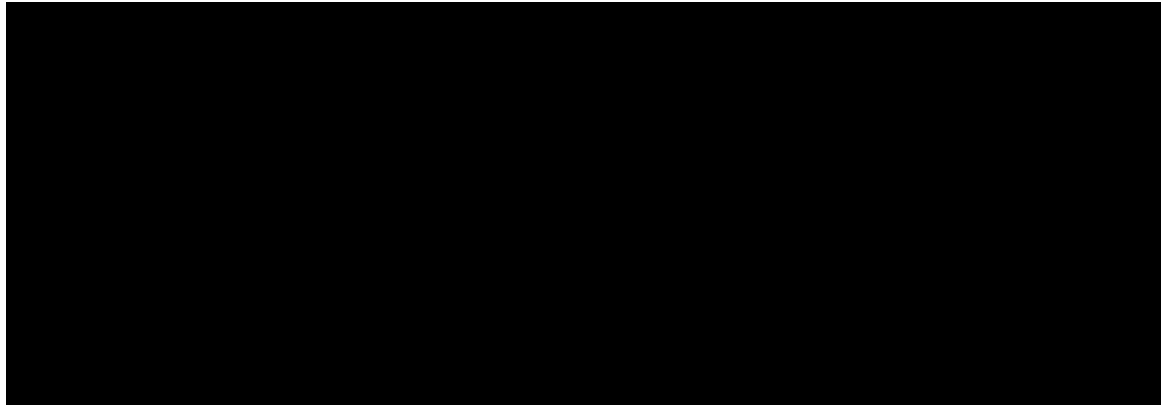
³⁸ Prior to filing the Second Monthly Update Report filed, the Trust Fund had also requested background information on the traditional leaders from the LRV during a meeting held on 13 August, and through an email sent by the Trust Fund to the LRV -with VPRS in copy- on 29 August at 10:44.

³⁹ See Defence Observations, para. 24 sharing this concern.





V. SECURITY CONCERNS RAISED BY LRV



VI. CONCLUSION

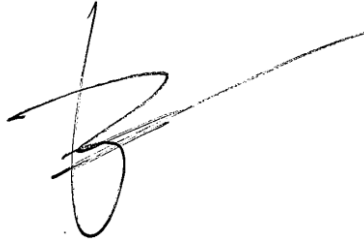
38. The Trust Fund wishes to reiterate to the Trial Chamber its commitment to submit a comprehensive and responsive Updated Implementation Plan by 2 November 2018, in compliance with the Trial Chamber's order. The Trust Fund is furthermore committed to promptly providing any clarification or further information requested in relation to this monthly update report.

⁴⁴ Consultation n.5 with doctor and psychologist specialised in socio-political trauma ("Consultation n.5"), p. 2.

⁴⁵ Consultation n.1, p. 5.

⁴⁶ LRV Observations, para. 55.

⁴⁷ LRV Observations, para. 55.



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 15 October 2018

At The Hague, The Netherlands