

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **4 June 2020**

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

**with 3 confidential *ex parte* annexes, available to the LRV and the Registry
Trust Fund for Victims' response to the Legal Representative of Victims' second
request for review of administrative decisions on victims' eligibility**

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

Office of Public Counsel for the Defence

Victims

States' Representatives

REGISTRY

Registrar

Counsel Support Section

Mr Peter Lewis

Mr Esteban Peralta Losilla

Victims and Witnesses Section

Mr Nigel Verrill

Victims Participation and Reparations

Other (Country Office)

Section

Mr Philipp Ambach

I. PROCEDURAL HISTORY

1. On 2 April 2020 and on 1 May 2020, the VPRS issued, respectively, 82 negative Preliminary Assessments and 82 negative Final Recommendations.¹ The Legal Representative of Victims (“LRV”) did not raise any observations at this stage despite having the procedural opportunity to do so.

2. On 18 May 2020, the Trust Fund for Victims (“Trust Fund”) notified the LRV and the Defence of 82 negative administrative decisions.² In accordance with the Trial Chamber’s decision on the Updated Implementation Plan,³ notification to the Trial Chamber was scheduled to take place by way of an annex to the next update report due on 22 June 2020.

3. On 2 June 2020, the LRV submitted a request for review of all 82 administrative decisions (“Request”)⁴ to the Trial Chamber.⁵

II. CLASSIFICATION OF THE PRESENT SUBMISSION

4. Pursuant to regulation 23 *bis* (1) of the Regulations of the Court, the Trust Fund has classified this filing as confidential in line with the classification of the Request. The annexes are classified as confidential, *ex parte* as they contain identifying information related to either applicants themselves or to individuals having signed documents related to the applications.

¹ Emails on 2 April 2020 at 5:11 pm and on 1 May 2020 at 12:51 pm.

² Emails from Trust Fund to LRV on 18 May 2020 at 5:18, 5:21 and 5:24 pm.

³ Decision on the Updated Implementation Plan from the Trust Fund for Victims, 4 March 2019, ICC-01/12-01/15-324-Conf, footnote 128: “in its periodic reports, the TFV notifies the Chamber where it decides that, upon screening, an applicant is ineligible for individual reparations. The deadlines to challenge such decisions run from the date of notification of the reports”. See also Decision on Trust Fund for Victims’ Draft Implementation Plan for Reparations”, 12 July 2018, [ICC-01/12-01/15-273-Red](#), para. 47

⁴ *Deuxième demande de réexamen par la Chambre des décisions administratives du Fonds au profit des victimes relatives à l'éligibilité des victimes aux mesures de réparations*, ICC-01/12-01/15-363-Conf with Annex A.

⁵ As a result of the early submission of the Request and in order to provide all relevant information to the Trial Chamber, the Trust Fund appends to the present observations: (i) its 82 administrative decisions as well as the corresponding application forms (Annex 1, confidential *ex parte*, available to the LRV and the Registry. It is noted that the Defence is already on receipt of the redacted versions of the decisions, transmitted to them by way of email on 18 May 2020); (ii) VPRS Final Recommendations (Annex 2, confidential *ex parte*, available to the LRV and the Registry); and (iii) a document briefly setting out the categories of decisions issued by the Trust Fund (Annex 3, confidential *ex parte* available to the LRV and the Registry).

III. TRUST FUND'S OBSERVATIONS

5. In the Request, the LRV requests that the Trial Chamber “annuls” the negative administrative decisions notified by the Trust Fund and that it grants individual reparations to these applicants⁶ on the basis that pursuant to “[TRANSLATION] the Declaration on friendly relationships, adopted in 1970 by the General Assembly of the United Nations, recognised as a source of customary law, ‘no state or group of states can intervene directly or indirectly, for no reason whatsoever, in the internal or external affairs of another state’”.⁷ The LRV submits that the ground for rejecting the applications is in breach of this principle, which should warrant reversal of the administrative decisions.⁸

6. The Trust Fund fails to see the relevance of this Declaration, pertaining to interstate relationships, to the reparation proceedings before this Court and therefore respectfully submits that the LRV fails to demonstrate that the Trust Fund erred in issuing the 82 administrative decisions at stake. Accordingly, the Request should be rejected and the Trust Fund’s administrative decisions upheld.

7. Further, the Trust Fund wishes to take this opportunity to encourage the LRV to submit to the Registry the 570 files collected jointly from January to March 2020 in Bamako and Timbuktu so that administrative decisions can be issued promptly, and their beneficiaries notified.⁹ In the same vein, at least some applicants who received a positive administrative decision on 17 March 2020 are still awaiting notification of the outcome of their application.

⁶ Request, relief sought on page 8.

⁷ Request, para 22.

⁸ Request, para. 23. Annex A contains a variety of other arguments, already made before the Trial Chamber and already responded to by the Trust Fund (Trust Fund for Victims’ response to the Legal Representative of Victims’ request for review of administrative decisions on victims’ eligibility, 15 May 2020, ICC-01/12-01/15-361-Conf-Exp (Confidential redacted version notified on 18 May 2020)).

⁹ This number is approximative in the sense that it encompasses only those files jointly collected from 13 January 2020 to March 2020 in Bamako and Timbuktu and does not encompass the application forms collected by the intermediaries after 19 March 2020 and transmitted in batches to the LRV.

IV. RELIEF SOUGHT

8. The Trust Fund respectfully requests the Trial Chamber to take note of the present observations and uphold its administrative decisions.



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 4 June 2020
At The Hague, The Netherlands