

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-01/12-01/15**
Date: **21 December 2021**

TRIAL CHAMBER VIII

Before: Judge Antoine Kesia-Mbe Mindua, Presiding Judge
Judge Bertram Schmitt
Judge María del Socorro Flores Liera

SITUATION IN THE REPUBLIC OF MALI

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

Public

**Decision on the Request of the Legal Representative of Victims for Resumption of
Action for Deceased Victims a/11180/21 and a/11182/21**

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

Mr Karim A. A. Khan

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****Trust Fund for Victims**

Mr Pieter de Baan

REGISTRY

Registrar

Mr Peter Lewis

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

Mr Philipp Ambach

Others

Trial Chamber VIII of the International Criminal Court, in the case of *The Prosecutor v. Ahmad Al Faqi Al Mahdi* (the ‘Al Mahdi case’), having regard to Articles 68 and 75 of the Rome Statute, issues the following ‘Decision on the Request of the Legal Representative of Victims for Resumption of Action for Deceased Victims a/11180/21 and a/11182/21’.

1. On 17 August 2017, the Chamber issued its Reparations Order,¹ which was in part amended by the Appeals Chamber on 8 March 2018.²

2. On 8 November 2021, the Legal Representative of the Victims (‘LRV’) filed a request informing the Chamber of the death of applicants a/11180/21 and a/11182/21 and requesting that a family member of each of the deceased persons (‘Applicants’) be authorised to resume the action brought by the said victims (‘Request’).³ In the Request, the LRV indicates that the administrative decisions on the eligibility of victims for reparations are currently under the Trust Fund for Victims (‘TFV’)’s consideration.⁴ Attached to the Request, the LRV provides supporting documents to establish that: i) victims a/11180/21 and a/11182/21 died; ii) the family relations between the Applicants and the deceased victims; and iii) the Applicants have been duly mandated by the family members of victims a/11180/21 and a/11182/21 to resume the action brought before the Court by deceased victims.⁵ The LRV further requests that the Applicants receive the same protective measures as the deceased victims.⁶ No submissions in response to this request were filed.

3. On 25 November 2021, TFV submitted its Twenty-second update report on the implementation of reparations, informing the Chamber, *inter alia*, that the TFV’s determination of the applications for individual reparations of victims a/11180/21 and a/11182/21 are under the TFV’s consideration, pending the Chamber’s decision on the Request.⁷

¹ Reparations Order, 17 August 2017, [ICC-01/12-01/15-236](#).

² Judgment on the appeal of the victims against the “Reparations Order”, 8 March 2018, [ICC-01/12-01/15-259-Red2](#).

³ Demandes de reprise d’actions introduites par les victimes a/11180/21 et a/11182/21 (‘Request’), 8 November 2021, [ICC-01/12-01/15-433](#), paras 5, 7.

⁴ Request, [ICC-01/12-01/15-433](#), para. 3.

⁵ Annex A, 9 November 2021, ICC-01/12-01/15-433-Conf-Exp-AnxA; Annex A, 9 November 2021, ICC-01/12-01/15-433-Conf-Exp-AnxB.

⁶ Request, [ICC-01/12-01/15-433](#), para. 8.

⁷ Twenty-second update report on the updated implementation plan (‘TFV Report’), 25 November 2021, ICC-01/12-01/15-436-Conf, para. 15.

4. Regarding deceased beneficiaries in general, the TFV proposes to expedite the process of resumption of actions, while ensuring that the reparations are awarded to the relevant designated family members and the Chamber is consequently informed.⁸ In particular, the TFV suggests that when a beneficiary passes away after an administrative decision has been issued, the award will be issued to a designated family member, in accordance with the procedure applied so far by the Chamber.⁹ Awards will only be issued after the TFV has reviewed and approved, in consultation with the LRV if necessary, all the necessary documentation.¹⁰

5. The Chamber recalls that, consistent with the Court's jurisprudence,¹¹ it has previously granted requests for the resumption of actions of deceased victims to persons appointed as successors to the action. To that end, the said person must establish the death of the victim beneficiary, his or her family relationship with the victim, and his or her appointment by family members granting him or her authority to act on behalf of the victim.¹² Requests have been granted both, when the TFV had already rendered a positive administrative decision regarding an initial beneficiary,¹³ and when an administrative decision was still pending before the TFV, without prejudice to its eventual outcome.¹⁴

6. In the instant case, the Request concerns individuals a/11180/21 and a/11182/21 who filed applications for individual reparations. Regarding a/11180/21, the Chamber notes that the TFV has already rendered a positive administrative decision,¹⁵ whereas the LRV was requested to provide additional information as to a/11182/21, before an administrative decision could be taken.¹⁶

7. In light of the above, and given the information and supporting documentation provided by the LRV, the Chamber finds that the Applicants, as duly designated successors of

⁸ TFV Report, ICC-01/12-01/15-436-Conf, para. 22.

⁹ TFV Report, ICC-01/12-01/15-436-Conf, para. 22.

¹⁰ TFV Report, ICC-01/12-01/15-436-Conf, para. 22.

¹¹ *See, inter alia*, Trial Chamber II, *The Prosecutor vs. Germain Katanga*, Decision on the Application for Resumption of Action brought by family members of deceased victim a/0195/08, 9 November 2021, [ICC-01/04-01/07-3891](#), para. 5.

¹² Decision on the Request of the Legal Representative of Victims for Resumption of Action for Deceased Victims a/10283/21 and a/10293/21 ('7 July 2021 Decision'), 7 July 2021, [ICC-01/12-01/15-393](#); Decision on the LRV Request for Resumption of Action for Deceased Victim a/20519/19 ('21 April 2020 Decision'), 21 April 2020, [ICC-01/12-01/15-357](#); Decision on LRV Request for Resumption of Action for Deceased Victim a/35084/16, 2 June 2017, [ICC-01/12-01/15-223](#).

¹³ 21 April 2020 Decision, [ICC-01/12-01/15-357](#), para. 4.

¹⁴ 7 July 2021 Decision, [ICC-01/12-01/15-393](#), para. 6.

¹⁵ Annex 1, 25 November 2021, ICC-01/12-01/15-436-Conf-Exp-Anx1, p. 14.

¹⁶ TFV Report, ICC-01/12-01/15-436-Conf, para. 14.

a/11180/21 and a/11182/21, respectively, can continue the actions initiated by the deceased victims, under the same conditions as the initial applicants.

8. Regarding protective measures, the Chamber grants the request that the protective measures granted to the victims i.e., anonymity vis-à-vis the public, also apply to the successors in the actions brought by victims a/11180/21 and a/11182/21.

9. As to the TFV's proposal for an expedite procedure for resumption of actions of deceased beneficiaries, the Chamber finds it appropriate. Accordingly, in the event that a beneficiary passes away after an administrative decision has been issued, TFV is hereby authorised to award reparations to a designated family member in accordance with the procedure applied so far by the Chamber. Accordingly, designated family members can be authorised by the TVF to resume actions brought by deceased victims, after the TFV has reviewed and approved, in consultation with the LRV, if necessary, all the necessary documentation.¹⁷

¹⁷ TFV Report, ICC-01/12-01/15-436-Conf, para. 22.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY,

GRANTS the Request;

AUTHORISES the TFV to follow the expedite procedure for resumption of actions of deceased beneficiaries, as detailed above.

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



Judge Antoine Kesia-Mbe Mindua, Presiding Judge



Judge Bertram Schmitt



Judge María del Socorro Flores Liera

Dated this Tuesday, 21 December 2021

At The Hague, The Netherlands