

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

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

Date of original : 17 October 2022

Date of public redacted version: 4 September 2023

**TRIAL CHAMBER VIII**

**Before:**

**Judge Antoine Kesia-Mbe Mindua  
Judge Bertram Schmitt  
Judge Maria del Socorro Flores Liera**

**SITUATION IN THE REPUBLIC OF MALI**

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

**Public**

**Public redacted version of “Trust Fund for Victims’ response to the Legal Representative for Victims’ third request for extension of time (ICC-01/12-01/15-456-Conf)”, ICC-01/12-01/15-457-Conf, 17 October 2023**

**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**

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Mr Mayombo Kassongo

**Trust Fund for Victims**

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**REGISTRY**

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Mr Osvaldo Zavala Giler

**Victims and Witnesses Section**

**Victims Participation and Reparations  
Section**

Mr Philipp Ambach

**Other (Country Office)**

## I. BACKGROUND

1. On 25 February 2022, the Trust Fund for Victims (“TFV” or “Trust Fund”) filed its twenty-third update report on the implementation of reparations in the *Al Mahdi* case (“Twenty-Third Update Report”).<sup>1</sup>
2. On 5 April 2022, the Trial Chamber VIII (“Trial Chamber”) issued a decision on the Twenty-Third Update Report, directing the Trust Fund to: (i) “commence with the implementation of the collective reparations in the shortest time possible and provide the Chamber [...] with detailed information regarding the future planned activities for the implementation of collective reparations and a concrete timeline for the completion of all reparations ordered in the case”;<sup>2</sup> (ii) together with the LRV “conclude the collection of all remaining applications for individual reparations, at the latest, within four weeks from the notification of the present Decision”;<sup>3</sup> (iii) “complete the implementation of individual awards, at the latest, within four months from the notification of the present Decision”.<sup>4</sup>
3. On 14 April 2022, upon a request from the LRV (the “LRV’s First Request”),<sup>5</sup> the Trial Chamber extended the deadline for completion of collection of individual reparations applications and payment of individual reparations to 15 August 2022 (for the LRV and Trust Fund) and 14 November 2022 (for the Trust Fund), respectively (the “Decision on the LRV’s First Request”).<sup>6</sup>

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<sup>1</sup> Twenty-third update report on the updated implementation plan, with two confidential *ex parte* annexes, 25 February 2022, ICC-01/12-01/15-438-Conf.

<sup>2</sup> Decision on the TFV’s Twenty-third update report on the updated implementation plan, ICC-01/12-01/15-439-Conf, para. 11.

<sup>3</sup> ICC-01/12-01/15-439-Conf, para. 15.

<sup>4</sup> ICC-01/12-01/15-439-Conf, para. 18.

<sup>5</sup> Corrigendum de “*Demande urgente d’extension de délai suivant* ‘Decision on the TFV’s Twenty-third update report on the updated implementation plan ( ICC-01/12-01/15-439-Conf)’, ICC-01/12-01/15-440-Conf” du 7 avril 2022, 8 April 2020, ICC-01/12-01/15-440-Conf-Corr. On 13 April 2022, the Trust Fund responded to the request (Trust Fund for Victims’ response to the Legal Representative for Victims’ request for extension of time , ICC-01/12-01/15-441-Conf).

<sup>6</sup> Decision on the LRV’s Urgent Request for an extension of the time limit pursuant to ‘Decision on the TFV’s Twenty-third update report on the updated implementation plan (ICC-01/12-01/15-439-Conf)’, 14 April 2022, ICC-01/12-01/15-443-Conf.

4. On 25 May 2022, the Trust Fund submitted its twenty-fourth update report on the implementation of reparations in the *Al Mahdi* case (“Twenty-Fourth Update Report”).<sup>7</sup>
5. On 9 August 2022, the LRV submitted a new request to extend the time limit set by the Trial Chamber for completion of collection of applications for individual reparations (the “LRV's Second Request”).<sup>8</sup>
6. On 18 August 2022, the Trial Chamber extended the deadline for the LRV to conclude the consolidation of applications for individual reparations in his possession, until 15 October 2022, and directed the Trust Fund to complete the implementation of individual awards by 14 January 2022 (the “Decision on the LRV’s Second Request”).<sup>9</sup>
7. On 25 August 2022, the Trust Fund submitted its twenty-fifth update report on the implementation of reparations in the *Al Mahdi* case (“Twenty-Fifth Update Report”).<sup>10</sup>
8. On 12 October 2022, the LRV submitted a third request to extend the time limit set by the Trial Chamber for completion of consolidation of applications for individual reparations (the “LRV’ s Third Request”).<sup>11</sup>
9. On 14 October 2022, the Trial Chamber directed the Trust Fund to file its observations on the LRV Third Request.<sup>12</sup>

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<sup>7</sup> Twenty-fourth update report on the updated implementation plan, with two confidential annexes, 25 May 2022, ICC-01/12-01/15-447-Conf.

<sup>8</sup> Demande de prorogation de délai suivant « Decision on the LRV’s Urgent Request for an extension of the time limit pursuant to ‘Decision on the TFV’s Twenty-third update report on the updated implementation plan’ ICC-01/12-01/15-443”, 9 August 2022, ICC-01/12-01/15-452-Conf.

<sup>9</sup> Decision on the LRV’s Urgent Request for an extension of the time limit pursuant, 18 August 2022, ICC-01/12-01/15-454-Conf.

<sup>10</sup> Twenty-fifth update report on the updated implementation plan, with one confidential annex and one public annex, 25 August 2022, ICC-01/12-01/15-455-Conf.

<sup>11</sup> Requête en extension du délai accordé pour terminer les activités de consolidation de dossiers en cours de réparation individuelle, 12 October 2022, ICC-01/12-01/15-456-Conf.

<sup>12</sup> Email from Trial Chamber VIII to the Trust Fund on 14 October 2022, at 14:53.

## II. CLASSIFICATION OF THE PRESENT SUBMISSION

8. Pursuant to regulation 23 *bis* (2) of the Regulations of the Court, the Trust Fund has classified this report as confidential as it responds to a filing under the same classification. A public redacted version will be filed without delay.

## III. SUBMISSIONS

9. At the outset, the Trust Fund wishes to recall its preliminary submissions on the distribution of labour between the Trust Fund and the LRV detailed in its response to the LRV's First Request for extension of deadline for completion of collection of individual reparations applications,<sup>13</sup> and summarised in the Decision on the LRV's First Request.<sup>14</sup>
10. The Trust Fund also recalls that the Trial Chamber extended the original deadline for completion of collection of individual reparations applications to 15 August 2022, and that the deadline for the conclusion of the consolidation of applications for individual reparations in possession of the LRV was further extended to 15 October 2022.
11. The Trust Fund understands that the LRV, in his Third Request, is requesting an exceptional extension of the deadline to consolidate applications in his possession. Specifically, the basis for the request, as well as the reason for its exceptionality, arise foremost from three circumstances: (i) a number of applications recently transmitted by the TFV require consolidation; (ii) the need to conclude consolidation of a number of incomplete applications for which the TFV sent requests for consolidation in the course of the period February 2021 to October 2022 ; (iii) the need to address a number of queries the TFV and the LRV received from a number of applicants who have not received, or have not been notified of a positive or negative decision on eligibility and any other issues arising in this context. The Trust Fund addresses these circumstances in turn, as follows.

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<sup>13</sup> Trust Fund for Victims' response to the Legal Representative for Victims' request for extension of time, 13 April 2022, ICC-01/12-01/15-441-Conf, paras 10-14.

<sup>14</sup> Decision on the LRV's Urgent Request for an extension of the time limit pursuant to 'Decision on the TFV's Twenty-third update report on the updated implementation plan (ICC-01/12-01/15-439-Conf)', 14 April 2022, ICC-01/12-01/15-443-Conf, paras 7-8.

(i) Applications recently transmitted by the TFV requiring consolidation.

12. As presented in its Twenty-Fifth Update Report,<sup>15</sup> between 4 and 7 July 2022, the Trust Fund conducted a mission to Timbuktu to launch the collective reparations. During the mission, the Trust Fund met descendants of the Saints, including the heads of family and women, as well as masons and guardians of mausoleums, to inform them about the status of the implementation of the individual reparations programme, and to monitor the overall process of implementation of reparations in this case. On 4 July 2022, a symbolic ceremony was held on the site of one of the affected mausoleums to solemnly acknowledge the suffering endured by the families, masons and guardians, their role in the reconstruction of the buildings, and in the continuation of the traditions. This ceremony consisted in a *Fatya*; its symbolic value was highly appreciated by participants and gave rise to great interest, thus boosting confidence in, and praise for the process of reparations by the TFV and the ICC in this case. A direct consequence of the ceremony was that new applicants, who came to know that the process of individual reparations was coming to a conclusion, approached the TFV, directly or through its intermediaries, in order to present an application for individual reparations. These new applications come from varied categories of applicants, including: (a) individuals who did not have access to the individual reparations process, including individuals living in remote areas of the country, or in neighbouring countries; and (b) individuals who did not trust the reparations process, in particular [REDACTED].

13. Thus, as presented in its Twenty-Fifth Update Report,<sup>16</sup> the Trust Fund received 45 applications and transmitted them to the LRV on 29 June 2022, 14 July 2022, 18 July 2022, 27 July 2022 and 1 August 2022.<sup>17</sup> In the weeks following the symbolic ceremony, the TFV was approached and received, and transmitted to the

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<sup>15</sup> Twenty-fifth update report on the updated implementation plan, with one confidential annex and one public annex, 25 August 2022, ICC-01/12-01/15-455-Conf., paras. 36 and 37.

<sup>16</sup> *Ibid.*, paras 26-29.

<sup>17</sup> Emails from the TFV to the LRV on 29 June 2022, at 16:18 (21 applications), on 14 July 2022 at 13:47, on 18 July 2022, at 10:57 (12 applications), on 27 July 2022, at 13:52 (4 applications), and on 01 July 2022, at 13:43 (1 application).

LRV additional 52 applications.<sup>18</sup> This brings to 97 the total number of new applications transmitted by the TFV to the LRV around and after the July ceremony.

14. In this context, the Trust Fund notes that the LRV submits that a number of the new applications to be consolidated arise from “recent missions carried out by the LRV to finalise the process of collection for victims in countries previously inaccessible.”<sup>19</sup> The Trust Fund surmises that those applications still require consolidation.

(ii) The need to conclude consolidation of a number of incomplete applications for which the TFV sent requests for consolidation in the course of the period February 2021 - October 2022.

15. Pursuant to Trial Chamber VIII Decision on the TFV Request for Amendment of the Screening Process of 23 September 2020,<sup>20</sup> the Trust Fund addressed the LRV when any application transmitted by VPRS was found incomplete or requiring additional documentation or information before a decision on eligibility to individual reparations could be taken. In its efforts to assist the LRV to finalise the consolidation of applications pending with him, on 26 April 2022, the Trust Fund transmitted to the LRV a recapitulating compilation of all requests for consolidations sent thus far: they were 43 in total, at the time, covering the period February 2021 – March 2022.<sup>21</sup> 11 of these 43 applications have been consolidated by the LRV from April 2022 until October 2022, while 11 additional

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<sup>18</sup> Emails from the TFV to the LRV on 28 September 2022, at 11:56 (13 applications), on 30 September 2022, at 20:24 (32 applications), on 30 September 2022, at 23:23 (2 applications) and 03 September 2022, at 10:53 (5 applications).

<sup>19</sup> LRV’s Third Request, ICC-01/12-01/15-456-Conf., para. 6.1).

<sup>20</sup> Decision on the TFV Request for Amendment of the Screening Process, 23 September 2020, ICC-01/12-01/15-374 (the VPRS receives, and registers, reparations applications from the LRV and transmits them to TFV and LRV no later than 30 days after receipt. The TFV issues its administrative decisions within 15 days of the transmission by the VPRS. Should the TFV require additional information from the LRV, the 15 day time limit will run as from receipt of that additional information; The administrative decision is considered preliminary for 15 days, period within which the LRV and Defence may make submissions to the TFV, via email. If no submissions are received by expiry of that time limit, the preliminary administrative decision is considered final and can be challenged through a request for review to the Chamber. If submissions are received, the TFV issues its final decision within a further 15 days. The final administrative decision can be challenged through a request for review to the Chamber)

<sup>21</sup> Email from the Trust Fund to the LRV on 26 April 2022, at 16:48.

requests for consolidations were sent by the TFV to the LRV in the same period (April 2022 – October 2022). Thus, the total number of applications pending with the LRV for consolidation is 43.

16. In the same spirit of efficiency and collaboration, on 10 October 2022,<sup>22</sup> the Trust Fund transmitted to the LRV the updated list of 43 applications awaiting consolidation. This list is an updated version of the April 2022 list, and consist in a compilation of all requests for consolidation sent; each request indicates specifically the piece of documentation and/or the kind of information that the Trust Fund requires in order to be in a position to take a decision on eligibility.

(iii) Additional issues

17. It is the understanding of the Trust Fund that the individuals who presented, either directly to the Trust Fund, or to the LRV, a query concerning the status of applications for individual reparations they submitted belong to either of the following categories: applicants whose application is pending with the LRV for consolidation (*i.e.* falling under the list of 43 applications mentioned above), or applicants whose application has not been transmitted to the TFV yet (being still in the possession of the LRV, or in course of transmission to the TFV by VPRS). The Trust Fund notes in this context that it receives frequent calls from applicants or heads of family worried about the status of their application or their reachability for the purposes of notification of the eligibility decision.
18. The Trust Fund considers that the verification of the status of the relevant application of applicants having filed a query could be carried out by the LRV in coordination with the TFV.
19. As a matter of principle, and as already submitted in support of the LRV's Second Request,<sup>23</sup> the Trust Fund believes it necessary to ensure that victims whose applications have been collected are in a position to submit *complete* applications, and to receive a decision on their eligibility to benefit from individual reparations.

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<sup>22</sup> Email from the TFV to the LRV on 19 October 2022, at 13:21.

<sup>23</sup> Trust Fund for Victims' response to the Legal Representative for Victims' further request for extension of time, (ICC-01/12-01/15-452-Conf), 9 August 2022, 5 August 2022, para. 10.



20. Additionally, the Trust Fund wishes to note that after 3 October 2022, it received through its intermediaries and heads of family, lists of 71 individuals in total who never submitted an application for individual reparations for reasons set out above (paragraph 12), *i.e.* in particular because they either did not have access to the reparation process before, or had no trust in it. The Trust Fund therefore brings to the attention of the Trial Chamber that these 71 individuals still wish to submit an application.
21. The Trust Fund underlines in this context that the satisfaction of the descendants of the Saints is a key element in the transition from the implementation of the individual reparations to the implementation of the collective reparations programme. The Trust Fund aims at ensuring a clear and common understanding by the families of the Saints, the community of Timbuktu and the Malian society at large of the collective reparations process as being for the benefit of the whole community of Timbuktu.<sup>24</sup>
22. In light of the above, the Trust Fund supports the LRV's request to extend the deadline for submission of applications to VPRS by two additional months, *i.e.* until 16 December 2022, under the terms of the proposal set forth in paragraph 23 below.
23. In order to speed up the conclusion of the process, and to make it as efficient as possible, the Trust Fund commits to provide full support to the LRV. In particular, the Trust Fund proposes to undertake the following tasks in support of the consolidation process:
  - a. With reference to the 97 applications received by the TFV in the aftermath of the July ceremony, and transmitted to the LRV, the TFV stands ready, and offers to consolidate them with the relevant figure of authority, and transmit them to the LRV. Additionally, should new applications be submitted by individuals referred to in paragraph 20 above, the TFV will consolidate them and transmit them complete to the LRV, while ensuring that this will have no impact on the timeliness of the conclusion of the consolidation process (including by

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<sup>24</sup> See Twenty-fifth update report on the updated implementation plan, with one confidential annex and one public annex, 25 August 2022, ICC-01/12-01/15-455-Conf., para. 36.

accompanying such collection with a communication campaign relevant to the end of the application process that is in place for individual reparations). In this manner, following his verification of their completeness, the LRV will be able to swiftly transmit all complete applications to VPRS. The Trust Fund will propose to the LRV that he inform the TFV, by 28 October 2022, of those, among the above-mentioned 97 applications he has already consolidated; the TFV is prepared to consolidate the remaining ones as presented in this paragraph. However, the responsibility to submit the consolidated applications to VPRS remains with the LRV

- b. As to the 43 applications pending consolidation with the requested piece of documentation and/or information, the Trust Fund equally stands ready to assist the LRV in the consolidation process. Thus, the Trust Fund will propose to the LRV that he inform the TFV, by 28 October 2022, of those, among these 43, he has already consolidated; the TFV will take in its hands the consolidation of the remaining ones, to the extent possible.
  - c. The Trust Funds stands ready to consolidate any other applications in possession of the LRV.
  - d. At the expiry of the extended deadline, were the Trial Chamber to grant it, the Trust Fund proposes to present to the Trial Chamber a list of the applicants (if any) for whom, to its knowledge, a consolidation was not possible.
24. Were the Trial Chamber to grant the two month extension of the deadline, the Trust Fund respectfully requests the Trial Chamber to consider a parallel extension of the deadline for the Trust Fund to issue its administrative decision on eligibility and proceed to the payment of reparations awards thereupon. Therefore, the Trust Fund would respectfully request the Trial Chamber to consider, in light of the procedure set by the Trial Chamber in its Decision on the TFV Request for Amendment of the Screening Process of 23 September 2020,<sup>25</sup> extending the deadline to complete the implementation of individual awards to no sooner than 15 March 2023.

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<sup>25</sup> Decision on the TFV Request for Amendment of the Screening Process, 23 September 2020, ICC-01/12-01/15-374; see footnote 20, above.

25. The Trust Fund respectfully informs the Trial Chamber that issues outside its control may arise in the process and commits to keep the Trial Chamber informed of any such matters relevant to the conclusion of the application process that is in place for individual reparations.

## CONCLUSION

For the foregoing reasons, the Trust Fund respectfully requests the Trial Chamber to:

- (i) take note of its observations regarding the LRV's Third Request;
- (ii) endorse the Trust Fund's proposal as detailed in paragraph 23;
- (iii) set the date of completion of the individual reparations proportionally to the extension of time provided for the consolidation of applications by the LRV with the support of the TFV, as presented in paragraph 24.



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Deborah Ruiz Verduzco

Executive Director of the Trust Fund for Victims

Dated this 4 September 2023

(Date of original: 17 October 2022)

At The Hague, The Netherlands