

**Cour
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**International
Criminal
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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*

PUBLIC

**Public redacted version of "Thirteenth update report on the implementation plan",
submitted on 20 February 2020, ICC-01/12-01/15-346-Conf-Exp**

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

Legal Representatives of Victims

Legal Representatives of Applicants

Mr Mayombo Kassongo

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**Office of Public Counsel for
Victims**

Office of Public Counsel for the Defence

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REGISTRY

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Mr Peter Lewis

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Other (Country Office)

Mr Nouhoum Sangaré

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I. BACKGROUND

1. On 12 July 2018, Trial Chamber VIII (“Trial Chamber”) issued a decision on the draft implementation plan (“Decision on the DIP”) wherein it laid down the features of the organisation of the screening process for individual applications for reparations,¹ and directed the Trust Fund for Victims (“Trust Fund”) to submit monthly update reports in relation to the Trust Fund’s progress during the reparations implementation stage of the present case.² On 4 March 2019, the Trial Chamber agreed to space the submission of such reports to a bimonthly basis.³

2. On 15 August 2018, 14 September 2018, 15 October 2018, 14 November 2018, 14 December 2018, 14 January 2019, 14 February 2019, 6 May 2019, 2 July 2019, 4 September 2019, and 25 October 2019, the Trust Fund filed its first,⁴ second,⁵ third,⁶ fourth,⁷ fifth,⁸ sixth,⁹ seventh,¹⁰ eighth,¹¹ ninth,¹² tenth,¹³ eleventh¹⁴ and twelfth¹⁵ update reports, respectively.

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](#), paras 35-49.

² [Decision on the DIP](#), para. 22.

³ Decision on the Updated Implementation Plan from the Trust Fund for Victims, 4 March 2019, ICC-01/12-01/15-324-Conf (“Decision on the UIP”) para. 104.

⁴ First monthly update report on the implementation plan, 15 August 2018, ICC-01/12-01/15-277-Conf (“First Monthly Report”).

⁵ Second Monthly Update report on the implementation plan, 14 September 2018, ICC-01/12-01/15-283-Conf, with two confidential annexes (“Second Monthly Report”).

⁶ Third monthly update report on the updated implementation plan, 15 October 2018, ICC-01/12-01/15-288-Conf.

⁷ Fourth monthly update report on the updated implementation plan, 14 November 2018, ICC-01/12-01/15-299-Conf, with four confidential annexes (“Fourth Monthly Report”).

⁸ Fifth monthly update report on the updated implementation plan including information concerning further details relevant to the Board of Directors’ complement decision, with one confidential annex, 14 December 2018, ICC-01/12-01/15-305-Conf (“Fifth Monthly Report”).

⁹ Sixth monthly update report on the updated implementation plan, 14 January 2019, ICC-01/12-01/15-314-Conf.

¹⁰ Seventh monthly update report on the updated implementation plan, 14 February 2019, ICC-01/12-01/15-321-Conf.

¹¹ Eighth update report on the updated implementation plan, 6 May 2019, ICC-01/12-01/15-321-Conf.

¹² Ninth update report on the updated implementation plan, with one confidential, *ex parte* annex, available to the Trust Fund, 2 July 2019, ICC-01/12-01/15-332-Conf.

¹³ Tenth update report on the updated implementation plan, confidential *ex parte* available to the Legal Representative of Victims and the Registry, 4 September 2019, ICC-01/12-01/15-335-Conf-Exp.

¹⁴ Eleventh update report on the updated implementation plan, confidential *ex parte* available to the Legal Representative of Victims and the Registry, with one confidential, *ex parte* annex, available to the Legal Representative of Victims and the Registry, 25 October 2019, ICC-01/12-01/15-336-Conf-Exp.

¹⁵ Twelfth update report on the updated implementation plan, confidential *ex parte* available to the Legal Representative of Victims and the Registry, 27 December 2019, ICC-01/12-01/15-340- Conf-Exp (“Twelfth Update Report”).

3. On 26 October 2018, the Trust Fund made a submission containing its interpretation of the legal criteria set by the Trial Chamber in respect of individual reparations, four annexes corresponding to the new draft application form for individual reparations and three models of *attestation*.¹⁶
4. On 2 November 2018, the Trust Fund filed its updated draft implementation plan (“UIP”).¹⁷
5. On 4 March 2019, the Trial Chamber approved the UIP.¹⁸
6. On 18 February 2020, Trial Chamber X, currently seized of the case against Mr Al Hassan held a status conference, during which ongoing *Al Mahdi* reparations proceedings were discussed, notably the possibility to delay the implementation of reparations.¹⁹ Upon notification of the transcripts, the Trust Fund will appraise the Chamber, if necessary, of the practical impacts such decision may have.
7. The Trust Fund hereby submits its thirteenth update report.

II. CLASSIFICATION OF THE PRESENT SUBMISSION

8. Pursuant to regulation 23 *bis* (1) of the Regulations of the Court, the Trust Fund has classified this report as confidential *ex parte* as it contains identifying information related to the potential beneficiaries as well as details concerning Trust Fund and Legal

¹⁶ Trust Fund for Victims’ submission of draft application form, with four confidential annexes, 26 October 2018, ICC-01/12-01/15-289-Conf. In its Fourth Monthly Report of 14 November 2018, the Trust Fund made amendments to questions 4.2 and 4.3 of the draft application form, and to the *attestation de famille* taking into consideration the LRV’s, “*Observations du Représentant légal sur la soumission du projet de formulaire de demande de réparation et de ses annexes par le Fonds au profit des victimes*”, 7 November 2018, ICC-01/12-01/15-294-Conf, paras 16-17, 21. On 21 November 2018, the Trial Chamber adopted the new application form for use during the implementation of reparations, subject to one amendment, *see* Trial Chamber, “Decision on TFV Submission of Draft Application Form”, 21 November 2018, [ICC-01/12-01/15-301](#). The Trust Fund filed the approved application form with the required amendment as a confidential annex in its Fifth Monthly Report of 14 December 2018.

¹⁷ Updated Implementation Plan, ICC-01/12-01/15-291-Conf-Exp. A confidential redacted version was notified on 7 November 2018 (ICC-01/12-01/15-291-Conf-Red). A public redacted version was filed on 22 November 2018, *see* Public redacted version of “Updated Implementation Plan”, submitted on 2 November 2018, ICC-01/12-01/15-291-Conf-Exp”, [ICC-01/12-01/15-291-Red2](#); and Lesser public redacted version of “Updated Implementation Plan” submitted on 2 November 2018 ICC-01/12-01/15-291-Conf-Exp, 14 October 2019, [ICC-01/12-01/15-291-Red3](#).

¹⁸ Decision on the UIP; Public redacted version of Decision on the Updated Implementation Plan from the Trust Fund for Victims, 4 March 2019, [ICC-01/12-01/15-324-Red](#).

¹⁹ Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Transcript of hearing of 18 February 2020.

Representative joint missions to Timbuktu. A confidential redacted version, justified by the reasons set out in the Trust Fund's previous update reports, is filed simultaneously.²⁰

III. UPDATE REPORT OF 18 FEBRUARY 2020

9. The present report covers the period from 28 December 2019 onwards up to date. For operational reasons, the Trust Funds respectfully submits its bimonthly report 10 days ahead of the deadline, [REDACTED]

10. The Trust Fund is pleased to report the progresses made during the reporting period as developed below.

A. Individual reparations awards

11. During the reporting period, the Trust Fund (i) completed the identification of almost all potentially eligible individuals (approximately 600); (ii) collected a total of 357 applications forms alongside the Legal Representative of Victims ("LRV"); (iii) ensured that the technicalities of the transmission of applications were set up and running; (iv) confirmed that the Victims Participation and Reparation Section ("VPRS") started treating the first 409 applications; (v) activated the review and decision making process by the Board of Directors; (vi) conducted a joint assessment of the perception of individual reparations in the Timbuktu community; and (vii) made significant progress in relation to the modalities for the disbursement of cash payments.

1. Identification of potential beneficiaries and collection of applications

12. As reported in the Twelfth Update Report, the Trust Fund proceeded to identify potential beneficiaries of individual reparations. During the reporting period, the Trust Fund continued this effort and expanded the lists of potential beneficiaries corresponding to each Protected Building. To do so, the Trust Fund first liaised with [REDACTED] with the purpose of obtaining an initial list of potential beneficiaries based on the eligibility criteria. To circumvent the problems caused by the poor quality

²⁰ See First Monthly Report, para. 3; Second Monthly Report, para. 8.

of the phone network, the Trust Fund collaborated [REDACTED] [REDACTED] [REDACTED] [REDACTED]. Once first lists were generated, the Trust Fund then verified confidentially their content with male and female family members [REDACTED] [REDACTED] [REDACTED].

13. The Trust Fund wishes to inform the Trial Chamber about the reluctance expressed [REDACTED] [REDACTED] in submitting applications for individual reparations. Representative [REDACTED] [REDACTED] refused to communicate a list of potential beneficiaries to the Trust Fund and the Legal Representative on the grounds that individual reparations constituted 'charity'.²¹ Requesting reparations may prejudice their reputation and notability. To ensure that potential beneficiaries are provided with the information about their right to submit an application form, the Trust Fund has approached the family through various other focal points [REDACTED] [REDACTED]. While this has enabled a mapping, and a limited collection of applications, of potentially eligible beneficiaries, it remains incomplete. [REDACTED] [REDACTED]

[REDACTED] That being said, the Trust Fund encountered a number of individuals who expressed their support to individual reparations and gave an application after being reassured that it is confidential.

14. [REDACTED] deplored that applications had to be submitted before the launching of collective reparations. [REDACTED] stated that, by principle, individual reparations are for a limited number of persons leading to the exclusion of the majority, and the frustration of the non-eligible ones. [REDACTED] expressed it would have been more strategic to first implement collective programmes as this would have eased the acceptance of the individual reparations by the families of the Protected Buildings. The Trust Fund continues to engage [REDACTED] [REDACTED] and is progressively getting access to [REDACTED] the family through other entry points. [REDACTED] [REDACTED] [REDACTED] [REDACTED]

²¹ [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

15. The Trust Fund can also report to the Trial Chamber that the individual reparations process had a very positive impact in certain families and on the importance accorded to the mausoleums. By way of example, direct descendants of the [REDACTED] family took an interest in their family's genealogy and history and retrieved older documents such as family trees. Others discovered certain aspects of their family's history through the reparations procedure and in general, the individual reparations process has put the mausoleums in the centre of public discourse in certain social circles thereby given them an increased importance and value.

16. The Trust Fund reports that the consolidation of lists of potential beneficiaries has proved to be a highly time-consuming exercise as it required a great amount of interaction with families before they accepted to communicate with the Trust Fund, which, in turn, had to gather and collectively discuss whether to engage in the individual awards process, and to double-check that no individual had been inadvertently excluded from lists.

17. The Trust Fund continues to engage with different focal points to tackle the above-reported challenges. As an example, the Trust Fund adopted a dynamic methodology through, first, a weekly engagement with families to respond to questions and bring clarifications when needed, and, second, an ongoing identification during the collection of applications. In each individual interview, the Trust Fund cross-checked information about family links, researched their genealogy and identified the name of additional potential beneficiaries not yet listed. In doing so, the Trust Fund has been mapping the missing potential eligible victims by Protected Buildings and their current places of residence.

18. At this stage, the Trust Fund has completed the identification of members of the families associated with Baber Babédié, Sheikh Sidi Ahmed Ben Amar Arragadi, Al Arawani, Sheih Sidi El Mokhtar Ben Sidi Mouhammad Al Kabir Al Kounti, Ahmed Fulane and Sheikh Abdoul Kassim Attouaty mausoleums. The Trust Fund is, barring the discovery of new eligible branches of the families, about to complete the identification of members of the families associated with the Alpha Moya, the Sidi Mahmoud Ben Omar Aquit and the El Micky mausoleums. In concrete terms, it means that the Trust Fund is in possession of lists of individuals for each of these mausoleums. These lists need to be developed and cross-checked by meeting these individuals to

ensure that their relatives have also been identified. [REDACTED]
[REDACTED]
[REDACTED]

19. In the Twelfth Update Report, the Trust Fund informed the Trial Chamber of potential beneficiaries living in Niger, Burkina Faso and Mauritania. Additionally, a significant pool of individuals was discovered throughout Mali, particularly in [REDACTED] and [REDACTED]. The Trust Fund prepared lists and confirmed their presence in these countries. The Trust Fund has already liaised with these groups and is currently planning missions to inform them in person about the individual reparations in the present case.

20. At this point, the Trust Fund expects that a significant number of potential beneficiaries will come forward in the course of February 2020. To date, it has identified a total of approximately 550 to 600 individuals. The reason why this figure is approximate is because, when first identifying potentially eligible victims, the Trust Fund entered them in its database under the names that were communicated to it, that are nicknames commonly used.²² During the mission in Timbuktu [REDACTED] [REDACTED] [REDACTED] these individuals submitted their applications using their official names as shown on their ID document. It appears that their nicknames almost never correspond to their official names, which has led to some of them being registered twice in the database. To ensure that no potential victim was left out as a result of this, the Trust Fund has run again the initial lists provided [REDACTED] [REDACTED] who could point out and confirm which individuals have been met and who remains to be met.

2. Collection of applications in Bamako and Timbuktu

21. During the reporting period, the Trust Fund and the LRV jointly collected applications in both Bamako and Timbuktu. To this end, a joint mission was conducted in Timbuktu from [REDACTED], which enabled the Trust Fund and the LRV to meet with the families and to collect victims' applications. The mission required an important coordination [REDACTED] [REDACTED] both in Bamako and in Timbuktu

²² It is worth noting that in northern Mali, the same person can be called differently depending on who call them, thereby having three or more "nicknames", none of them corresponding to their official names. Besides, a person can have many different official names depending on the identity document used, be it an identity card, a Nina card (often comporting mistakes), a passport or others.

for matters related to [REDACTED]
[REDACTED]
[REDACTED]

22. Additionally, on 28 January 2020, [REDACTED], and in light of the expected multiple contacts with the community of Timbuktu, the Trust Fund set up a training session [REDACTED] on matters related to interactions with victims in the field. The topics discussed covered a wide range of issues such as sensitive and appropriate ways to interact with potential beneficiaries, interview techniques to preserve confidentiality and avoid retraumatisation, and mitigating the safety and psychosocial risks when handing payments to victims [REDACTED]. In particular, the proposed format of the upcoming mission was presented, namely the fact that families would be invited in groups every day and delivered a collective presentation prior to be given the opportunity to submit an application during bilateral interviews. Potential risks and ways to mitigate them were identified, such as the risk that confidentiality among family members would not be preserved if they attend the same collective meeting, and a proposed way of mitigating this risk by relabelling the purpose of the individuals meetings as “having an exchange”, rather than a meeting with the sole purpose of submitting an application.

23. In Timbuktu, the Trust Fund [REDACTED] drafted lists of potential beneficiaries belonging to the same family that had to be met, and subsequently invited them to a secure location. After a joint collective meeting explaining the eligibility criteria and the Reparations Order, the Trust Fund and the LRV held individual meetings with each member of the family. The Trust Fund is pleased to report that a total of 174 applications were jointly collected in Timbuktu, namely [REDACTED] applications from the Ahmed Fulane Mausoleum, [REDACTED] for the Sheikh Abdoul Kassim Attouaty Mausoleum, [REDACTED] for the Sheikh Sidi Ahmed Ben Amar Arragadi Mausoleum, [REDACTED] for the Sheih Sidi El Mokhtar Ben Sidi Mouhammad Al Kabir Al Kounti Mausoleum and [REDACTED] for the Bahaber Babadié Mausoleum.

24. [REDACTED], the collection of applications in Timbuktu was hindered by civil unrests that followed a security incident in town. Movements of civilians were restricted, making it difficult for potential eligible beneficiaries to reach the secured location. For safety and logistic reasons, the Trust Fund and the LRV cancelled some of

the individual interviews and delegated the collection of these applications [REDACTED] [REDACTED] to a more convenient time. In parallel, the applications of [REDACTED] [REDACTED] [REDACTED] [REDACTED] have been collected.

25. [REDACTED] [REDACTED]. To date, [REDACTED] collected 78 applications, related to the Ahmed Fulane Mausoleum, the Sheikh Abdoul Kassim Attouaty Mausoleum, the Sheikh Sidi Ahmed Ben Amar Arragadi Mausoleum, the Sheikh Sidi El Mokhtar Ben Sidi Mouhammad Al Kabir Al Kounti Mausoleum, and the Al Arawani Mausoleum.

26. In Bamako, the Trust Fund and the LRV followed a similar approach and jointly invited individuals from the same family to an information meeting. Individuals willing to submit an application were given the possibility to do so. The Trust Fund and the LRV collected 95 applications in Bamako during the reporting period.

27. The Trust Fund is pleased to report that, to date, a total number of 357 applications have been collected, and wishes to remark that these applicants expressed their great satisfaction and a feeling of relief in submitting their forms. For most of them, it was the first time they were in contact with the institutions related to the Rome Statute.

28. The Trust Fund wishes to inform the Trial Chamber that the next mission to Timbuktu is scheduled from [REDACTED], where it expects to collect the remainder of applications for this area.

3. Technicalities of transmission

23

[REDACTED]

29. Last year, on 23 January 2019, the Trust Fund and VPRS had a first meeting to discuss the modalities of the application's transmission during which the Trust Fund indicated that communications from VPRS to the Trust Fund and the Parties should not take place through filings.

30. On 20 December 2019, after having been informed that the LRV had submitted supplementary information for some of the 409 pending files, and that, in any event, all files have been submitted to VPRS for transmission, the Trust Fund, by way of email, reiterated its preference for transmission via RM - Records Manager (formerly known as TRIM) containers and invited VPRS to discuss a realistic deadline for transmissions, noting that transmitting 409 files in batches might prove more practical.²⁴

31. On 11 January 2020, [REDACTED], a meeting was organised [REDACTED], during which the Trust Fund was informed by VPRS that it was ready to transmit 12 applications together with a positive preliminary assessment and that it intended to do so by way of filing.

32. On 13 January 2020, VPRS and the Trust Fund jointly sought the Trial Chamber's guidance to decide whether the transmission from VPRS to the LRV, the Defence and the Trust Fund should be made through filings on the case record or rather through correspondence by email/TRIM container. On 14 January 2020, the Trial Chamber stated a preference for transmission by email/TRIM containers to get the relevant information in a consolidated form on the case record, by way of the notification of the administrative decision on the eligibility by the Trust Fund.

33. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

34. On 17 January 2020, VPRS informed the parties that it was ready to transmit applications via RM - Records Manager containers.

35. [REDACTED]
[REDACTED]

²⁴ Email from the Trust Fund to VPRS on 20 December 2019 at 10:47.

On 28 January 2020, the LRV also expressed a preference for an application-based transmission system.

36.

37. The Trust Fund is pleased to inform the Trial Chamber that, on 31 January 2020, VPRS transmitted a first batch of 12 applications and offered its assistance to the parties for technical matters. The transmission contained all applications that VPRS could presently establish as falling within the Trust Fund's criteria for individual reparations based on the documentation received to date from the LRV.²⁵ In respect of deadlines of further transmissions of victims' forms and VPRS assessments, the Trust Fund recalled that a 30-day rolling transmission pace be observed, barring exceptional circumstances.

38. In respect of the number of applications to be submitted, the Trust Fund communicated to VPRS that a target of approximately 75 applications per batch would be most appropriate so as to ensure the expeditious delivery of reparations to individuals whose applications are successful, as well as the prompt notification of negative decisions.²⁶

²⁵ The Trust Fund is looking forward to receiving unclear or negative assessments if any.

²⁶ The target was calculated taking into account (i) upon analysis of the five VPRS reports on application submitted in 2018 (First Registry Report on Applications for Individual Reparations with Confidential Annex I and Confidential *ex parte* Annex II only available to the Legal Representative of Victims, 10 August 2018, [ICC-01/12-01/15](#); Corrigendum of "Second Registry Report on Applications for Individual Reparations" with Confidential Annex I and Confidential *ex parte* Annex II, only available to the Legal Representative of Victims, 10 September 2018, [ICC-01/12-01-15-282-Corr](#); Third Registry Report on Applications for Individual Reparations with Confidential Annex I and Confidential *ex parte* Annex II only available to the Legal Representative of Victims, 10 October 2018, [ICC-01/12-01/15-287](#); Fourth Registry Report on Applications for Individual Reparations with Confidential Annex I and Confidential *ex parte* Annex II only available to the Legal Representative of Victims, 13 November 2018, [ICC-01/12-01/15-298](#); Fifth Registry Report on Applications for Individual Reparations with Confidential Annex I and Confidential *ex parte* Annex II only available to the Legal Representative of Victims, 20 December 2018, [ICC-01/12-01/15-308](#)), the average numbers of the applications treated by VPRS per month; and (ii) the workload that the transmission of a too high number of applications would cause on the parties, VPRS and the Trust Fund.

4. Treatment of the first 409 applications

39. Until 13 December 2019, the Trust Fund and the LRV jointly worked in Mali. During this period, the LRV, as per the agreement reached with the Trust Fund, submitted the names of all 409 victims whose applications had been collected to the figures of authorities. Unfortunately, only eight turned out to be recognised by the authorities as either direct descendants or eligible for economic harm, leaving 401 applications non-consolidated.²⁷ The Trust Fund wishes to recall that, during a training session with potential figures of authorities held in September 2019, and during a meeting in Timbuktu in [REDACTED] 2019 [REDACTED], the LRV himself had indicated that a large batch of the 409 applications were not eligible for individual reparations and that it was composed of various groups, namely a group from Bamako, a group from [REDACTED], a group from [REDACTED] and a group from Timbuktu.²⁸

40. On 13 December 2019, having returned to The Hague, the LRV informed the Trust Fund he had submitted all 409 applications to VPRS. In its Twelfth Update Report, the Trust Fund conveyed to the Trial Chamber that all 409 applications had been submitted.²⁹ The Trust Fund was later informed by VPRS [REDACTED] that shortly after submitting the 409 applications, the LRV retracted and indicated that non-consolidated³⁰ applications (401) were not ready for transmission and that supplementary documents were ready to be submitted.

41. [REDACTED]

[REDACTED]. On 15 January 2020, the [REDACTED] informed the Trust Fund that the LRV expressed the need to benefit from additional time to transmit the missing documents.

42. On 16 January 2020, the Trust Fund agreed to extend the deadline for the submission of such documents, allowing for the consolidation of applications, to 10 February 2020 to ensure the full respect of victims' right to access reparation.

43. On 17 January 2020, upon request of the LRV, the Trust Fund and the LRV had a meeting to discuss the non-consolidated applications ("17 January Meeting"). At this

²⁷ In subsequent communications with the LRV, the latter indicated that 402 dossiers were outstanding.

²⁸ [REDACTED]

²⁹ Twelfth Update Report, para. 14.

³⁰ These are application forms collected by the LRV and for which he does not have a valid attestation.

occasion, the LRV indicated that he would propose “alternative solutions” to handle this group of victims.

44. On the same date, the Trust Fund received the proposal which consisted in applying a different standard to the remaining 401 or 402 applications initially collected by the LRV. More specifically, the LRV indicated his support of the system of attestations only for the new jointly collected applications³¹ and proposed to submit the non-consolidated applications with attestations signed by his proposed figure of authority, that is, the authority who had not been vetted by the Trust Fund as suitable for the present screening process. The LRV indicated that his [REDACTED] in Timbuktu reported tensions between the group of 409 individuals and newly contacted victims. The LRV requested an “appreciation *in concreto*” of the first 409 applications to make sure they receive individual reparations.

45. On 20 January 2020, the Trust Fund declined the LRV’s proposal to grant victim status to all 409 individuals as this would breach the procedural equality principle and go against the established screening process. The Trust Fund further indicated that its staff is in constant contact with multiple actors from Timbuktu’s society, and that no such tension had been brought to their attention. In any case, they invited the LRV to promptly report any information on possible tensions. Lastly, the Trust Fund indicated that it had no objection to the LRV resubmitting the list of 401 or 402 individuals who were not recognised to a second figure of authority. The Trust Fund recalled that for each Protected Building at least [REDACTED] figures of authorities were identified and made this proposal taking into account the fact that the LRV had submitted lengthy lists of individuals to figures of authorities leaving them only very few time to review them. Therefore, to avoid that one or a few individuals be overseen, the Trust Fund proposed that the list be submitted a second time to a figure of authority.³²

46. On 24 January 2020, upon request of the LRV, the Trust Fund and the LRV met again to review the proposal made by the LRV. The Trust Fund reiterated that no alternative procedural path could be contemplated for the 401 or 402 dossiers, recalled that no administrative decision had yet been taken, that each application would be individually scrutinised, and that it was of the utmost importance to not pre-empt the

³¹ The Trust Fund notes however, that the LRV resorted to these figures of authorities for the consolidation of his 409 dossiers thereby succeeding in consolidating 8.

³² Email from the Trust Fund to the LRV on 20 January 2020 at 16:58.

outcome of the decision. The LRV asked whether those 401 or 402 dossiers could be transmitted as such to VPRS, which the Trust Fund confirmed.³³

47. On 6 February 2020, VPRS informed the Trust Fund that it intends to communicate the negative preliminary assessment concerning a second batch of 75 applications by 2 March 2020.

48. On 17 February 2020, the Defence informed VPRS, the LRV and the Trust Fund that, after reviewing and analysing the first batch of 12 transmissions, it had no observations thereto.³⁴

49. On 18 February 2020, VPRS informed the Trust Fund that, by the 10 February deadline, supplementary documents had been received in relation to 101 applications.³⁵

5. The Trust Fund for Victims' review and decision making process

50. During the reporting period, the Trust Fund set up a mechanism destined to ensure the involvement of the Board of Directors in the eligibility decisions.

51. The Board designated one member representing the Board to take the decisions and to serve as a liaison between the Secretariat and the Board. Mr Gocha Lordkipanidze accepted to perform this role, with the support of the Secretariat. Should the workload in this procedure increase beyond original expectations, the Board will consider appointing a second or alternative Board member for this role, alongside Mr Lordkipanidze, in order to comply with the established 15 day decision-making timeframe.

52. During a mission to Georgia in January 2020, a Trust Fund staff member met with Mr Lordkipanidze to discuss and clarify his role and responsibilities in the review and the decision making process.

53. The Trust Fund is pleased to report that it is in a position to receive the transmissions of VPRS's final assessments and proceed with their review and the issuance of administrative decisions.

6. Stakeholder meeting about potential tensions linked to the individual reparation process

³³ VPRS was invited to the meeting but could not attend.

³⁴ Email from the Defence on 17 February 2020 at 10:18.

³⁵ Email from VPRS to the Trust Fund on 18 February 2020 at 15:11.

54. As set out above, during the 17 January Meeting, the LRV reported that tensions had risen in relation to the individual reparation process. The Trust Fund indicated that no such tensions were brought to its attention despite daily contacts with various actors of the Timbuktu community, as well as weekly reports generated on the ground. Nonetheless, the Trust Fund treated this information with the highest attention and proposed the LRV to co-organise a meeting with relevant stakeholders, during the joint mission in Timbuktu, to assess the situation.

55. On 4 February 2020, the Trust Fund and the LRV invited eight participants deemed well-placed to report on tensions related to the implementation of individual reparations, namely [REDACTED] figures of authority on the Trust Fund/LRV joint list of authorities, the Trust Fund's [REDACTED] the LRV's [REDACTED] [REDACTED] individuals part of the 409 dossiers with the LRV, and [REDACTED] individuals whose applications had been jointly collected by the LRV and the Trust Fund. In light of the high authority of the [REDACTED], the Trust Fund and the LRV requested that [REDACTED] designates one representative to attend the meeting. One person was designated [REDACTED].

56. All participants pointed out that no tension related to the individual reparation process had been reported. The LRV's [REDACTED] operating in Timbuktu indicated that [REDACTED] collected applications a long time ago. The LRV's [REDACTED] and the LRV himself confirmed that out of the 409 applications, [REDACTED] applications were collected from persons located in Timbuktu. The LRV [REDACTED] explained that he collected dossiers from grandsons of the Saints, workers and common Timbuktuans. The meeting provided an occasion to explain the eligibility criteria set by the Trial Chamber in the Reparations Order. One attendee (invited as an applicant part of the 409) indicated that his application had been collected in 2015 and that since then, he had not heard any news, except for the fact that his application had been rejected. He deplored that once the criteria were clearly defined, the people who had submitted an application were not informed as to whether they fell within or outside the criteria. The LRV's [REDACTED] confirmed that those who heard that their application had been rejected were worried. While the Trust Fund was unable to clarify exactly the source of this information, as no negative administrative decision has been rendered yet, the meeting was the opportunity for the Trust Fund and the LRV to explain that since 2015, specific criteria had been set

out and those not eligible for individual reparations could be eligible for collective reparations, which do not require such application.

57. All participants agreed that no tension whatsoever was to be reported in relation to the implementation of the individual reparations. Nonetheless, one of the figures of authority expressed concern that, allegedly, 409 individuals would claim to be direct descendants or that their livelihood exclusively depended on the Protected Buildings. The LRV clarified that not all these people were eligible for individual reparations, that some would be eligible for collective reparations and others were from outside Timbuktu. The Trust Fund recalled that a mechanism with authorities had been put into place to prevent reparations being given to individuals not falling within the criteria. The deepest concern was expressed as to why the person of authority proposed to the LRV could attest to this, given that ■ was not associated to the town of Timbuktu. The Trust Fund reassured the participant that this authority had admitted ■■■■ that he had no personal knowledge of the social fabric around the Protected Buildings and that, accordingly, he had not been confirmed as an authority by the Trust Fund.

58. In this regard, the Trust Fund wishes to caution against adopting a western-centred approach where it would be presumed that ■■■■ would necessarily be in a position to know the elements related to the identity, the filiation or the profession of certain individuals.

59. The Trust Fund and the LRV agreed that they will hold an information session to explain the eligibility criteria to the ■ applicants from Timbuktu belonging to the group of 409 applicants. The meeting would not aim at notifying eligibility decisions. Unfortunately, the LRV has declined to organise such meeting during the upcoming mission in Timbuktu.

60. The Trust Fund will continue to monitor the situation in Timbuktu, including and especially any tensions that the implementation of individual reparations may prompt. The Trust Fund remains committed to implementing reparations in a manner that strengthens the social ties and does not harm victims or their communities.

7. Modalities of the disbursement of cash payments

61. During the reporting period, the Trust Fund continued exploring the most suitable way to proceed with the payment of individual reparations awards.

62. On 1 February 2020, the Trust Fund held an exchange with the LRV concerning the modalities of the disbursement of financial compensation. The LRV expressed certain reluctance to payment in cash due to security reasons. He explained the importance to avoid intermediaries such as banks, and also expressed the victims' preference for mobile money transfers. The LRV proposed to proceed with payment progressively as soon as positive eligibility decisions are issued. The LRV reported that, even if victims would prefer a single instalment, it is best to select an option that would not endanger them. The Trust Fund and the LRV agreed to consider whether there is a need for several instalments, which would depend *inter alia* on the amount to be paid and the security situation, and decide on this matter at the time of initiating the payment.

63. On 3 February 2020, the Trust Fund shared with the LRV the draft Scope of Work for the programme of the cash payment in Timbuktu and Bamako and invited him to issue recommendations and observations. The solution suggested by the TFV is to proceed via mobile transfers, through the intermediary of an organisation in a position of and having the relevant local experience of processing such payments, to multiple accounts held with different telecom providers. [REDACTED]

64. In the present situation, a [REDACTED] based in Mali recently conducted a procurement process to select an organisation able to proceed to mobile transfers of money in a safe and rapid way throughout Mali. The procurement process conducted by this [REDACTED] resulted in the selection of one company that is able to operate safely in Mali, including in Timbuktu. Given the volatile security situation in Timbuktu and the relative urgency³⁶ of disbursing the financial awards, the Trust Fund decided to have recourse to rules 110.17 (iii) and (vii) and 110.18 (a) of the ICC Financial Rules and Regulations. On 19 February 2020, the Trust Fund requested the Procurement Unit to approve a sole sourcing procedure whereby the Trust Fund would be allowed to engage with the company selected by such [REDACTED] directly. The request is currently pending a response.

B. Collective reparations

65. In respect of collective reparations, the Trust Fund has made significant progress in relation to the: (i) UNESCO proposal for the award of rehabilitation and maintenance

³⁶ [REDACTED]

of the Protected Buildings; (ii) selection of the implementing partners for the symbolic reparations and for moral harm, as well as for the Economic Resilience Facility.

1. Review of the UNESCO proposal for the rehabilitation and maintenance of the Protected Buildings

66. On 10 January 2020, UNESCO submitted its technical and financial proposal to the Trust Fund.

67. On 15 January 2020, the Trust Fund shared with the Procurement Unit the technical evaluation form and the guidelines developed specifically for the review of the UNESCO proposal.

68. The Trust Fund's proposal review panel identified the need for UNESCO to provide clarifications in regard of several issues, namely [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

69. On 17 February 2020, the Trust Fund issued a request for clarification to UNESCO, based on the issues listed above, and requested a revised proposal to be received by 6 March. Following the Trust Fund's final review, and in application of the applicable Financial Rules and Regulations, the proposal will be presented to the Procurement Review Committee for final approval.

2. Selection of the implementing partners for the symbolic reparations and for moral harm and the Economic Resilience Facility

70. In respect of the two calls for Expression of Interest concerning the psychological support mechanisms³⁷ and the Economic Resilience Facility (ERF), the Trust Fund wishes to recall that the review of the vendor's applications resulted in the eligibility of seven vendors for the psychological support projects and five vendors for the ERF. On 20 January 2020, the Trust Fund communicated to the Procurement Unit the Procurement Evaluation Reports as well as the respective Scopes of Work for these two collective awards and other programmatic documents.

³⁷ Due to their interdependence with the measures ordered in respect of psychological support, the memorialisation measures have been encompassed in the same Expression of Interest.

71. On 18 February 2020, the Procurement Unit issued the Requests for Proposals for both activities to the selected vendors, requesting submission of proposals.

72. During the week of 9 to 13 March 2020, the Trust Fund plans to organise, in accordance with standard practice, two proposal development workshops in Bamako. The workshops will be attended by the eligible vendors, allowing the Trust Fund to provide necessary guidance for proposal development and vendors to pose questions and receive clarifications. In doing so, the Trust Fund aims to ensure that the bidders have a proper understanding of the reparations process, including the specific legal and programmatic parameters of the awarded reparations, and that their project proposals should be responsive to the desired levels of quality, relevance and satisfaction of victim beneficiaries. .

73. The submission deadline for proposals is on 22 March 2020. The Trust Fund has established proposal review panels and the related specific documentation will be shared shortly with the Procurement Unit. The Trust Fund would like to express its deep appreciation to the Procurement Unit for its continuing engagement and support.

C. Symbolic reparations

74. During the reporting period, the Trust Fund pursued its engagement with the Malian authorities. Thanks to the support of the Country Office, the Trust Fund met with the Ministry of Foreign Affairs and International Cooperation on 30 January 2020 in Bamako, and shared the latest developments about the implementation of reparations.

75. The Trust Fund and the Ministry of Foreign Affairs and International Cooperation agreed to organise an inter-ministerial meeting the week of 9 to 13 March 2020, in view of discussing the practicalities of the ceremony with the relevant stakeholders. The Trust Fund proposed the involvement of UNESCO at this early stage to ensure transparency in the organisation of the ceremony. A booklet, summarising the reparations proceedings and their implementation, was prepared to ensure that the ceremony is organised on the basis of a common understanding of the context.

76. The Trust Fund and the Ministry of Foreign Affairs and International Cooperation also agreed to set up regular meetings in Bamako, gathering key ministries

with regards to reparations, to ensure transparency and cooperation. The Minister of Foreign Affairs and International Cooperation reiterated its strong support to the activities of the Trust Fund in Mali and, in particular, with regard to the implementation of reparations awards in the *Al Mahdi* case.

D. Other: recruitment and operational consequences

77. [REDACTED]
[REDACTED]
[REDACTED].

78. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

79. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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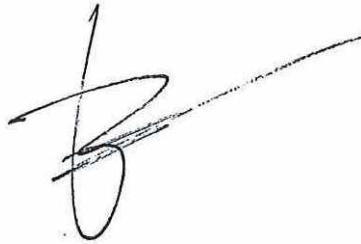
80. [REDACTED]
[REDACTED]
[REDACTED]

81. [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

CONCLUSION

82. The Trust Fund respectfully requests the Trial Chamber to take note of the present report. The Trust Fund stands ready to further clarify any information provided in this document, or any other issue affecting the implementation phase of the present case.



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 20 February 2020
At The Hague, The Netherlands