

ANNEX 4

PUBLIC

From: Trial Chamber VIII Communications
Sent: 14 January 2020 13:27
To: Ambach, Philipp; Trial Chamber VIII Communications
Cc: [REDACTED] de Baan, Pieter; [REDACTED]; Dubuisson, Marc;
 Office of the Director DJSS; [REDACTED]
 mayombokassongo [REDACTED] Aouini, Mohamed; [REDACTED]
Subject: Direction in Relation to Joint Inquiry from VPRS and TFV
Follow Up Flag: Follow up
Flag Status: Flagged

Dear VPRS and TFV:

In relation to your joint inquiry, the Chamber understands the proposed alternatives as deviating primarily on when the Chamber is formally notified of information generated in the course of the screening process.

The Chamber recalls that it has set out differential notification requirements depending on the result of the TFV screening. In the event of a positive screening, the Chamber is to be kept informed 'solely' by the inclusion on a list of eligible beneficiaries in the (since changed to) bi-monthly report (DIP Decision, ICC-01/12-01/15-273-Red, para. 46; UIP Decision, ICC-01/12-01/15-324-Red, para. 104, n. 129). In the event of a negative screening, the Chamber is to be notified of 'all relevant materials leading to the negative finding' (DIP Decision, ICC-01/12-01/15-273-Red, para. 46). By 'all relevant materials', the Chamber considers this to mean at least those materials specified in the DIP Decision procedure (i.e. from the VPRS Preliminary Assessment to the TFV's decision – see DIP Decision, ICC-01/12-01/15-273-Red, paras 36-46).

As the procedure is devised, the amount of information the Chamber requires on each screening applicant can only be known as of the moment the TFV renders its decision. At the moment of this decision, the aforementioned relevant materials would all have been generated and thus be available for inclusion in a consolidated filing. A consolidated filing will also facilitate the review procedure, as all relevant information about an applicant will be in one place in the case record.

Beyond this, it is emphasised that both proposed alternatives result in the Chamber receiving the same information on negatively screened applicants before having to resolve any requests for review. The alternatives are not meaningfully different, and the Chamber considers it should have been possible to resolve such an issue without its involvement. In this regard, the Chamber recalls its prior finding that '[t]he TFV is now tasked to manage an administrative eligibility screening, and it is primarily for the TFV itself to decide on the most reasonable way to conduct its assessment in the context of concrete cases. It is inconsistent with the notion of ordering an administrative screening for the Chamber to micro-manage the screening process.' (ICC-01/12-01/15-280, para. 7).

With all this in mind, the Chamber will state a preference for the 2nd alternative identified in the joint inquiry ('[s]hould the transmission be made by email/TRIM containers, the relevant information will be filed in a consolidated form on the case record, by way of the notification of the administrative decision on the eligibility by the Trust Fund'). The Chamber does so to further the expeditious progress of the screening process, but expects the TFV and VPRS to be able to resolve future questions of this kind on their own.

Best,

[REDACTED] on behalf of Trial Chamber VIII

From: Ambach, Philipp
Sent: 13 January 2020 12:41
To: Trial Chamber VIII Communications
Cc: [REDACTED] de Baan, Pieter; [REDACTED] Dubuisson, Marc; Office of the Director DJSS;
[REDACTED]
Subject: Al Mahdi: VPRS query on form of transmission/notification of victim reparation applications to Defence, Legal Representative and TFV

Dear Trial Chamber VIII,

In the context of the Al Mahdi reparations, the VPRS will soon commence its transmissions of preliminary assessments of victim applications for reparations to the Defence and the Legal Representative of Victims (LRV), as well as its notifications to the Trust Fund for Victims (TFV), as per the Chamber's 'Decision on Trust Fund for Victims' Draft Implementation Plan for Reparations', ICC-01/12-01/15-273-CONF of 12 July 2018, para. 37 *in fine*.

In this context, the VPRS and the TFV respectfully request the Chamber's guidance whether said VPRS transmissions to the Defence and LRV as well as notifications to the TFV should be made through filings on the case record or rather through correspondence by email/TRIM container.

Should the transmission be made by way of filings, the relevant information related to each dossier will be transmitted to the Chamber progressively.

Should the transmission be made by email/TRIM containers, the relevant information will be filed in a consolidated form on the case record, by way of the notification of the administrative decision on the eligibility by the Trust Fund.

We thank you very much in advance for this clarification.

Best wishes for the new year,

Philipp, jointly on behalf of VPRS and the TFV