

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **29 April 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

**Decision on the LRV Request for Extension of Time to Submit Individual
Reparations Applications**

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

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REGISTRY

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Counsel Support Section**Victims and Witnesses Section****Detention Section****Victims Participation and Reparations
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TRIAL CHAMBER VIII of the International Criminal Court hereby issues its ‘Decision on the LRV Request for Extension of Time to Submit Individual Reparations Applications’ in the case of *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, having regard to Regulation 35 of the Regulations of the Court (the ‘Regulations’).

I. Procedural history and submissions

1. On 17 August 2017, the Chamber issued its order for reparations.¹ The Chamber primarily awarded collective reparations, but individual reparations were accorded to certain victims.²
2. On 4 March 2019, the Chamber formally approved the procedure for the Trust Fund for Victims (the ‘TFV’) to screen applications for individual reparations.³ The Chamber specified that all victims must be identified and all their applications collected within one year (i.e., by 4 March 2020).⁴
3. On 24 February 2020, having received a joint request by the TFV and the Legal Representative of Victims (the ‘LRV’),⁵ the Chamber extended the deadline until 4 May 2020.⁶
4. On 15 April 2020, the LRV filed another request for extension of time in light of the impact of measures taken in response to the international public health situation (the ‘Request’).⁷ The LRV refers back⁸ to the arguments advanced in the joint extension request of February 2020,⁹ as well as to an email sent jointly by the TFV and the LRV

¹ Reparations Order, ICC-01/12-01/15-236 (the ‘Reparations Order’).

² Reparations Order, ICC-01/12-01/15-236, paras 67, 76-83, 90.

³ Decision on the Updated Implementation Plan from the Trust Fund for Victims, ICC-01/12-01/15-324-Conf (public redacted version notified same day) (the ‘UIP Decision’). *See also* Decision on Trust Fund for Victims’ Draft Implementation Plan for Reparations, 12 July 2018, ICC-01/12-01/15-273-Conf (notified 13 July 2018, along with public redacted version), paras 35-46 (specifying the *modus operandi* for the screening, including the procedural deadlines and the respective roles of the TFV, the parties and the Registry).

⁴ UIP Decision, ICC-01/12-01/15-324-Conf, paras 33-36.

⁵ *See* annexed to the Decision on Joint Request for Extension, ICC-01/12-01/15-348-Conf-AnxA-Red.

⁶ Decision on Joint Request for Extension of Reparations Application Deadline, ICC-01/12-01/15-348-Conf (the ‘Decision on Joint Request for Extension’), with a confidential, *ex parte* and confidential redacted annex.

⁷ Requête en vue d’une extension du délai fixé pour le dépôt des demandes de réparation, ICC-01/12-01/15-356-Conf-Exp. A confidential redacted version was filed the same day, ICC-01/12-01/15-356-Conf-Red.

⁸ Request, ICC-01/12-01/15-356-Conf-Red, para. 10.

⁹ As annexed to the Decision on Joint Request for Extension, ICC-01/12-01/15-348-Conf-AnxA-Red.

which informed the Chamber about the impact of the international public health situation on meeting the time limit of 4 May 2020.¹⁰

5. In the Request, the LRV submits that the additional time granted by the decision of 24 February 2020 should be considered suspended since 18 March 2020, date on which the LRV staff member in Bamako had to leave on short notice.¹¹ The LRV requests an extension of time of eight weeks, corresponding to the six weeks lost between mid-March and early May, plus an additional two weeks which are needed to organise travel and meetings.¹² The period of eight weeks is requested to start running when three conditions are met: (i) the lifting of travel restrictions; (ii) the lifting of prohibitions of gatherings in Mali; and (iii) the lifting of restrictions put in place by MINUSMA.¹³
6. The LRV argues that the suspension is justified because a number of activities require presence in the field which due to the situation is not possible until further notice.¹⁴ The consolidation of new applications involves meeting with authorities and concerns hundreds of applications, making a purely electronic processing of the material not feasible.¹⁵ According to the LRV, the requested extension would allow to consolidate the 200 applications collected until 18 March 2020, and all applications newly collected since.¹⁶ The LRV further submits that the collection of applications outside of Mali requires travel and meetings.¹⁷ Finally, it argues that preparing the submission of collected applications necessitates travel since all these applications were left at Bamako.¹⁸ The LRV also raises quality control as a reason justifying the extension.¹⁹
7. The Defence left the matter to the appreciation of the Chamber.²⁰
8. The TFV responded to the Request in its 14th update report, supporting it.²¹

¹⁰ Email to Trial Chamber VIII Communications, 25 March 2020, 9:53. A redacted version of the email was sent to the Defence on 25 March 2020, 10:03.

¹¹ Request, ICC-01/12-01/15-356-Conf-Red, para. 11.

¹² Request, ICC-01/12-01/15-356-Conf-Red, para. 13.

¹³ Request, ICC-01/12-01/15-356-Conf-Red, para. 12.

¹⁴ Request, ICC-01/12-01/15-356-Conf-Red, para. 14.

¹⁵ Request, ICC-01/12-01/15-356-Conf-Red, paras 15-20.

¹⁶ Request, ICC-01/12-01/15-356-Conf-Red, para. 21.

¹⁷ Request, ICC-01/12-01/15-356-Conf-Red, paras 23-27.

¹⁸ Request, ICC-01/12-01/15-356-Conf-Red, para. 28.

¹⁹ Request, ICC-01/12-01/15-356-Conf-Red, paras 29-32.

²⁰ Email from counsel, 17 April 2020, 13:38. The Chamber had indicated that any submissions in response should be filed by 24 April 2020, *see* Email from Trial Chamber VIII Communications, 17 April 2020, at 10:02.

II. Analysis

9. Regulation 35(2) of the Regulations, in relevant part, requires that '[t]he Chamber may extend or reduce a time limit if good cause is shown and, where appropriate, after having given the participants an opportunity to be heard'.
10. The main reason for which the LRV argues that good cause is shown to extend the presently existing time limit is based on the fact that due to the current international public health situation, travel and meetings are not possible until further notice. Yet, according to the LRV, a number of activities which are required to complete the process of submitting individual reparations applications necessitate presence of the LRV and his team in the field, as well as being able to meet with applicants and local figures of authority.²²
11. The Chamber recalls that in its previous decision granting an extension of time, it already found that a number of the activities which seem to require travel and missions indeed constitute good cause for extending the time limit.²³ The Chamber also recalls that it did not grant the requested extension of four months in full bearing in mind the detrimental impact this would have on the interests of the victims as a whole.²⁴
12. In the current Request, however, the LRV is not demanding an additional extension in order to gain more effective working time for its activities. Instead, it asks that the activities which it had planned for the period until beginning May 2020 be completed at a later stage, namely when currently existing restrictions on travel, missions and gatherings are lifted.²⁵
13. The Chamber is cognisant of the fact that measures taken in response to the current international public health situation render a number of the activities listed in the Request impossible. Therefore, the Chamber finds that good cause exists to extend the time limit as requested by the LRV. This means that all individual reparations

²¹ Confidential redacted version of "Fourteen update report on the updated implementation plan and response to LRV Request ICC-01/12-01/15-356-Conf-Red", submitted on 22 April 2020, 22 April 2020, ICC-01/12-01/15-358-Conf-Red (the 'TFV Fourteenth Update Report'), paras 10-13.

²² See Request, ICC-01/12-01/15-356-Conf-Red, paras 14-28.

²³ Decision on Joint Request for Extension, ICC-01/12-01/15-348-Conf, paras 6-7.

²⁴ Decision on Joint Request for Extension, ICC-01/12-01/15-348-Conf, paras 7-12, 18.

²⁵ See Request, ICC-01/12-01/15-356-Conf-Red, paras 11-13.

applications will have to be submitted no later than eight weeks after the following three conditions are met: (i) the lifting of travel restrictions; (ii) the lifting of prohibitions of gatherings in Mali; and (iii) the lifting of restrictions put in place by MINUSMA.

14. In order for the Chamber, and all parties and participants, to know when this period of eight weeks begins, the Chamber considers that the Registry is best placed to inform when these three conditions are met.
15. At the same time, the Chamber is mindful of the fact that this impacts its expectation announced in the previous extension decision to issue any and all individual reparations reviews by early March 2021.²⁶
16. For this reason, the Chamber considers that the LRV and TFV should continue to find and implement mitigation measures to continue the work on collecting, consolidating and submitting reparations applications to the extent possible.²⁷ In this context, the Registry is also to inform the Chamber promptly as soon as at least one of the three conditions mentioned above is met. This will enable the Chamber to get a better understanding of which additional mitigation measures may be possible and which activities could potentially already be started even if not all three conditions are met at the same time.

²⁶ Decision on Joint Request for Extension, ICC-01/12-01/15-348-Conf, para. 11.

²⁷ The Chamber notes in this regard also the explanations provided by the TFV in its latest update report: TFV Fourteenth Update Report, ICC-01/12-01/15-358-Conf-Red, paras 19, 27-30.

FOR THE FOREGOING REASONS, THE CHAMBER HEREBY

GRANTS the Request;

EXTENDS the reparations application deadline to eight weeks after the following three conditions are met: (i) the lifting of travel restrictions; (ii) the lifting of prohibitions of gatherings in Mali; and (iii) the lifting of restrictions put in place by MINUSMA;

ORDERS the Registry to inform the Chamber promptly as soon as at least one of these three conditions is met; and

ORDERS the Registry to inform the Chamber promptly as soon as all three conditions are met.

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



Judge Raul C. Pangalangan, Presiding Judge



Judge Antoine Kesia-Mbe Mindua



Judge Bertram Schmitt

Dated 29 April 2020

At The Hague, The Netherlands