

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date of original : 29 December 2020

Date: 16 May 2022

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

With 1 confidential, *ex parte* annex, available to the LRV and the Registry

**Public redacted version of Eighteenth update report on the updated
implementation plan, 29 December 2020, ICC-01/12-01/15-377-Conf**

Source:

The Trust Fund for Victims

To be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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Counsel for the Defence

Mr Mohamed Aouini

Legal Representatives of Victims

Legal Representatives of Applicants

Mr Mayombo Kassongo

Unrepresented Victims

Unrepresented Applicants for

Participation/Reparation

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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, set 4 March 2020 as the deadline for its completion,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 approved the Trust Fund updated implementation plan³ and agreed to the submission of such reports at a bimonthly basis (“Decision on the UIP”).⁴

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, 25 October 2019, 27 December 2019, 20 February 2020, 22 April 2020, 22 June 2020, 26 August 2020, and 26 October 2020 the Trust Fund filed its first,⁵

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 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](#)

⁴ 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.

⁵ First monthly update report on the implementation plan, 15 August 2018, ICC-01/12-01/15-277-Conf (“First Monthly Report”).

second,⁶ third⁷, fourth⁸, fifth⁹, sixth,¹⁰ seventh,¹¹ eighth,¹² ninth,¹³ tenth,¹⁴ eleventh¹⁵, twelfth,¹⁶ thirteenth,¹⁷ fourteenth,¹⁸ fifteenth,¹⁹ sixteenth,²⁰ and seventeenth²¹ update reports, respectively.

3. On 17 March 2020, 16 April 2020, 18 May 2020, 19 June 2020, 22 July 2020, 20 August 2020, 17 September 2020, 30 September 2020 and 14 October 2020, the Trust Fund notified the LRV and the Defence of 12 positive administrative decisions (first batch), 79 negative administrative decisions (second batch), 82 negative administrative decisions (third batch), 75 negative administrative decisions (fourth batch), 75 negative administrative decisions (fifth batch) 75 negative administrative decisions (sixth batch), 16 negative administrative decisions (seventh batch), 76 positive administrative decisions (eighth batch) and 130 positive administrative decisions (ninth batch).

4. On 29 April 2020, the Trial Chamber issued a decision ruling that all reparations applications must be submitted no later than eight weeks after the three following

⁶ 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”).

⁷ Third monthly update report on the updated implementation plan, 15 October 2018, ICC-01/12-01/15-288-Conf.

⁸ 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”).

⁹ 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”).

¹⁰ Sixth monthly update report on the updated implementation plan, 14 January 2019, ICC-01/12-01/15-314-Conf.

¹¹ Seventh monthly update report on the updated implementation plan, 14 February 2019, ICC-01/12-01/15-321-Conf.

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

¹³ 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.

¹⁴ 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.

¹⁵ 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.

¹⁶ 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.

¹⁷ Thirteen update report on the updated implementation plan, confidential *ex parte* available to the Legal Representative of Victims and the Registry, 20 February 2020, ICC-01/12-01/15-346-Conf-Exp.

¹⁸ Fourteenth update report on the updated implementation plan and response to LRV Request ICC-01/12-01/15-356-Conf-Red, 22 April 2020, ICC-01/12-01/15-358-Conf-Exp, with four confidential *ex parte* annexes, (“Fourteenth Update Report”).

¹⁹ Fifteenth update report on the updated implementation plan, with three confidential, *ex parte* annexes, 22 June 2020 (notified on 23 June 2020) ICC-01/12-01/15-366-Conf. (Fifteenth Update Report).

²⁰ Sixteenth update report on the updated implementation plan, with thirteen confidential, *ex parte* annexes and one confidential annex, 26 August 2020, ICC-01/12-01/15-371-Conf. (Sixteenth Update Report)

²¹ Seventeenth update report on the updated implementation plan, confidential *ex parte* available to the Legal Representative of Victims and the Registry, with three confidential, *ex parte* annexes, 26 October 2020, ICC-01/12-01/15-375-Conf-Exp. (Seventeenth Update Report).

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 ██████████²² The Trial Chamber further noted that this decision impacts on its expectations to issue any and all individual reparations reviews by early March 2021.²³

5. On 23 July 2020, the Trial Chamber issued its decision on the LRV Requests (“Decision on LRV Requests”), upholding the Trust Fund’s rulings and directing the LRV to re-consolidate applications which included more or less specific claims, ██████████

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²² Decision on the LRV Request for an Extension of Time to Submit Individual Reparations Applications, ICC-01/12-01/15-359-Conf, para. 13.

²³ Decision on the LRV Request for an Extension of Time to Submit Individual Reparations Applications, ICC-01/12-01/15-359-Conf, para. 15.

²⁴ Decision on LRV Requests for Review of Trust Fund for Victims’ Administrative Decisions on Individual Reparations Applications, 23 July 2020, ICC-01/12-01/15-369-Conf, para. 49 and disposition, ruling on *Demande de réexamen par la Chambre de la Décision du Fonds relative à l’éligibilité des victimes aux mesures de réparations*, ICC-01/12-01/15-360-Conf-Exp with Confidential Annex A (Confidential redacted version notified on 18 May 2020) ; *Deuxieme demande de réexamen par la Chambre des décisions administratives du Fonds au profit des victims relatives à l’éligibilité des victimes aux mesures de réparations*, ICC-01/12-01/15-367-Conf with Annex A ; *Troisieme demande de réexamen par la Chambre des décisions administratives du Fonds au profit des victims relatives à l’éligibilité des victims aux mesures de réparations*, ICC-01/12-01/15-363-Conf with Annex A. Trust Fund’s response are : Trust Fund for Victims’ response to the Legal Representative of Victims’ request for review of administrative decisions on victims’ eligibility, ICC-01/12-01/15-361-Conf with one confidential *ex parte* annex. On 22 May 2020, the LRV submitted a reply (*Observations du Représentant légal sur la Réponse du Fonds au profit des victimes contre le réexamen sollicité des demandes de réparations individuelles*, ICC-01/12-01/15-362-Conf with confidential *ex parte* annex). On the same day, by way of email, the Trust Fund informed the Trial Chamber that it does not intend to reply; Trust Fund for Victims’ response to the Legal Representative of Victims’ second request for review of administrative decisions on victims’ eligibility, ICC-01/12-01/15-364-Conf with three confidential *ex parte* annexes. On 5 June 2020, the LRV submitted a reply (*Observations du Représentant légal sur la « Trust Fund for Victims’ response to the Legal Representative of Victims’ second request for review of administrative decisions on victims’ eligibility »*. On 9 June 2020, by way of email, the Trust Fund informed the Trial Chamber that it does not intend to surreply; Trust Fund for Victims’ response to the Legal Representative of Victims’ third request for review of administrative decisions on victims’ eligibility, ICC-01/12-01/15-368-Conf with confidential Annex A

6. On 3 September 2020, the Trial Chamber issued a Decision on the LRV Request for Authorisation to Re-Consolidate Individual Reparations Applications.²⁵
7. On 23 September 2020, upon a request from the Trust Fund,²⁶ the Trial Chamber issued a decision simplifying considerably the screening process (“Decision on Screening Process”).²⁷
8. On 23 November 2020, the Registry filed a report informing the Trial Chamber that the Trust Fund and the LRV were conducting a mission to Bamako.²⁸

II. CLASSIFICATION OF THE PRESENT SUBMISSION

9. Pursuant to regulation 23 *bis* (1) of the Regulations of the Court, the Trust Fund has classified this report as confidential for the reasons set out in the Trust Fund’s previous update reports.²⁹ A public redacted version will be filed as soon as feasible.

III. UPDATE REPORT OF 29 DECEMBER 2020

10. The present report covers the period from 26 October 2020 onwards.

A. Trust Fund’s mission to Bamako

1) Organisation of the mission

11. During the reporting period, the political and security situation slightly improved permitting that the Trust Fund conducts a mission to Bamako from ■ November 2020 to ■ December 2020.
12. Specifically, the political situation stabilised to the extent that a new government was nominated, that a *Conseil National de Transition* (transitional parliament) was put in place and that the borders remained open.

²⁵Decision on the LRV Request for Authorizations to Re-Consolidate Individual Reparations Applications, 3 September 2020, ICC-01/12-01/15-373-Conf ruling on *Demande d'autorisation aux fins de reconsolidation du cinquième lot de décisions d'éligibilité aux réparations individuelles à la suite de la décision du 23 juillet 2020* (ICC-01/12-01/15), 4 August 2020, ICC-01/12-01/15-370-Conf.

²⁶ Trust Fund’s submission on the amendment of the screening process, 2 September 2020, ICC-01/12-01/15-372-Conf.

²⁷ Decision on the TFV Request for amendment of the Screening Process, 23 September 2020, ICC-01/12-01/15-374-Conf.

²⁸ Registry’s Report pursuant to the “Decision on the LRV Request for Extension of Time to Submit Individual Reparations Applications” (ICC-01/12-01/15-359-Conf), 23 November 2020, ICC-01/12-01/15-376-Conf.

²⁹ See First Monthly Report, para. 3; Second Monthly Report, para. 8.

13. As to the COVID-19-related health situation, after a short period of improvement (permitting notably the gathering of people under the conditions that a number of sanitary measures are respected), more stringent measures (state of emergency) were recently put in place for a period of ten days, starting on 19 December 2020.³⁰ As a result, during the reporting period, the Court's ██████ permitted that essential missions take place, albeit solely to Bamako and in compliance with a number of limitations, such as most notably periods of quarantine upon arrival and return, combined with COVID-19 testing requirements.

14. Restrictions continue to apply to the use of ██████ flights, be it for ICC staff members (thereby preventing the organisation of a mission to Timbuktu) or for Trust Fund partners (thereby preventing that Trust Fund's partners are securely flown into Bamako). As a result, the Trust Fund explored mitigating measures such as the use of ██████ flights (operated by ██████) or ██████ flights (operated by the ██████) but these also proved unfeasible.

15. Taking this into account, the Trust Fund took all necessary arrangements to organise a mission with the following five goals: (i) meet and inform the newly appointed national authorities to ensure their support of the implementation of reparations on their territory; (ii) resume the collection of applications in Bamako, interrupted at the start of the COVID-19 pandemic; (iii) meet with the implementing partners for collective reparations and organise a working session in view of the launching of the programmes; (iv) further the assistance mandate and broadly disseminate relevant information to the civil society and international community; and (v) further the fundraising efforts.

16. The mission was heavily supported by the Chair of the Board of Directors, Mama Koité Doumbia, who attended numerous meetings, including with the national authorities and who made an intervention at the press conference of 27 November 2020 organised by the Trust Fund in Bamako.

2) *Meetings with national authorities*

17. During the mission to Bamako, the Trust Fund was able to meet with ministers whose administrations are instrumental to the success of the implementation of reparations, namely: the ministry of foreign affairs, the ministry of justice (██████)

³⁰ *Décret* 2020-0317/PT-RM on 18 December 2020, accompanied by a press release from *conseil des ministres* on the same day.

[REDACTED]
[REDACTED]), the ministry of reconciliation, the ministry of family and women, the ministry of health and the ministry of culture.

18. The Trust Fund deemed it critical to meet with them shortly after they took office to have their support and minimize any possible delays on the implementation of reparations and fully inform them of ongoing and upcoming activities taking place on their territory. [REDACTED]

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

19. All ministers expressed their continuous support to the Trust Fund's operations in Mali (be it in relation to the implementation of reparations in the *Al Mahdi* case or to the launching of an assistance programme in other regions).

B. Individual reparation awards

1. Ongoing collection of applications

20. During the reporting period, the Trust Fund continued collecting applications in both Bamako and Timbuktu.

21. Specifically, the Trust Fund's intermediary collected a further 45 applications [REDACTED], all from individuals claiming to be direct descendants from [REDACTED]. All forms were transmitted to the LRV for consolidation. In total, since the start of the screening process, the Trust Fund's intermediary collected 230 applications which were all transmitted to the LRV in the course of 2020.

22. Additionally, from [REDACTED] November 2020 to [REDACTED] December 2020,³¹ the Trust Fund collected jointly with the LRV exactly 300 applications in Bamako.³²

³¹ The mission was supposed to end one week earlier but the Trust Fund elected to extend it by one week to continue the collection of applications.

³² The following applications were collected: (i) [REDACTED] direct descendants of Ahmed Fulane; (ii) [REDACTED] direct descendants of Alpha Moya; (iii) [REDACTED] direct descendants of Baber Babédié – this high number is explained by the fact that an entire branch of the family residing in Bamako became familiar with the reparations

23. In addition to collecting these applications, the Trust Fund made use of this mission to intensify communications with [REDACTED] the families. Regular contacts with [REDACTED] the families ([REDACTED]) are very important in many respects. First, they permit to verify that no member of the family was “forgotten” and that all members of the families were properly informed of their rights and given a fair chance to submit an application. In this spirit, the Trust Fund regularly checks [REDACTED] within the families whether [REDACTED]. This is what permitted the collection of residual applications within certain families. Second, [REDACTED] permit managing the communication within the family in an efficient and coordinated manner. As a result, the Trust Fund regularly enquires with them about any concerns that they might have heard within their families as to the progress of the reparations process. While these communications [REDACTED] within the families are deemed very efficient, they occur in addition to more “decentralised” contacts with members of the families. [REDACTED]. Lastly, contacts [REDACTED] permit managing the expectations and any feelings of impatience. In particular, considering that payments will be disbursed progressively, the Trust Fund will rely on these resource persons to contribute to the dissemination of the information that payments of individual awards to some family members does not mean that others have been forgotten but merely that their files are still being processed.

24. The presence of the Trust Fund in Mali, and the meeting with 300 individual applicants brought back the individual reparation process on the agenda of members of the community of Timbuktu. As a result, a branch of the family [REDACTED], mostly residing in the desert ([REDACTED]) approached the Trust Fund claiming that they are direct descendants. The Trust Fund is currently

process through their connections with their families in Timbuktu; (iv) [REDACTED] direct descendants of Sheikh Abdoul Kassim Attouaty; (v) [REDACTED] descendants, that are in a position to claim descentance from two mausoleums ([REDACTED]); (vi) [REDACTED] direct descendants of Sheikh Mouhamad El Mikki— this high number is explained by the fact that the Trust Fund and the LRV had to cancel meetings with this family at the start of the COVID-19 outbreak; (vii) [REDACTED] individuals claiming direct descentance from three saints ([REDACTED]); (viii) [REDACTED] descendants of Sheikh Sidi Ahmed Ben Amar Arragadi; (ix) [REDACTED] direct descendants of Sidi Mahmoud Ben Omar Mohamed Aqut; (x) [REDACTED] descendants from two mausoleums ([REDACTED]); and (xi) [REDACTED] descendants of Sidi Yehia.

organizing meetings with representatives of these communities (remotely via Whatsapp) with a view of informing them fully of the reparations process and of the requirements that need to be fulfilled to claim direct descentance.

25. In general, it is the Trust Fund's intention to complete the collection of all applications by March 2021.³³ In this respect, the Trust Fund recalls, that the LRV indicated that he would be in charge of the collection of applications of the victims residing in Niger and Burkina Faso. The Trust Fund underlines that the organisation of such a mission will require a number of arrangements (preliminary phone contacts with identified victims to convey basic information in relation to reparations, enquiries about their availability and place of residence, preliminary mapping by phone of other members of the families, organisations of transport for those not residing in the capital, booking of rooms etc). Therefore, the Trust Fund is maintaining contacts with the LRV on this issue and advises that preparations start in early January 2021. The Trust Fund will revert to the Trial Chamber on this issue, as required.

2. Administrative decisions

26. During the reporting period, 41 decisions (all positive) were issued by the Trust Fund corresponding to the tenth batch of four applications, the eleventh batch of 34 applications and the twelfth batch of three applications. For reasons of administrative economy, the twelfth batch has been treated together with two applications from the eleventh batch for which the Trust Fund requested the LRV to provide supplementary documentation, which was eventually secured. The list of victims is appended in the Annex.

Ninth Batch (136 applications, 130 decisions)

27. The Trust Fund recalls that during the previous reporting period (on 14 October 2020), it had issued the ninth batch of 130 decisions but that it had not reported relevant information thereon and not notified them to the Trial Chamber as the fifteen-day deadline to submit observations on the decisions issued had not expired yet.³⁴

³³ It is noted that the conditions set forth in the Decision on the LRV Request for an Extension of Time to Submit Individual Reparations Applications, ICC-01/12-01/15-359-Conf are not met yet as it is currently unfeasible to [REDACTED]. That being said, with the exception of very residual individuals that may become aware of the existence of the screening process at a late stage, the Trust Fund expects to have completed the collection of applications in Mali in March 2021.

³⁴ Seventeenth Update Report, ICC-01/12-01/15-375-Conf-Exp, paras 33-36.

28. *Timing of collection:* all applications were jointly collected by the Trust Fund and the LRV during the joint mission in 2020. *Gender and age:* 50 decisions relate to women and girls while 80 relate to men and boys. 31 are minors. *Type of claim and value of the award:* All beneficiaries were found eligible for reparations for the moral harm suffered, consequently the amount to be awarded is [REDACTED]. Disbursement will occur in Francs CFA. The overall amount to be disbursed to these 130 beneficiaries is [REDACTED]. *Protected Building:* 46 of these beneficiaries relate to the Ahmed Fulane mausoleum, 40 to the Baber Babédié mausoleum, 20 to the Sheihk Abdoul Kassim Attouaty, 17 to the Sheikh Mouhamad El Mikki mausoleum and 7 to the Sheihk Sidi El Mokhtar Ben Sidi Mouhammad al Kounti mausoleum.

29. The Defence has not made any observation within the 15-day deadline set forth in the Decision on the DIP and in the Decision on Screening Process.

Tenth Batch (four applications, four decisions)

30. On 20 October 2020, the VPRS transmitted four applications to the Trust Fund. They correspond to four applications, which were re-consolidated by the LRV in accordance with the Decision on LRV Requests. On 4 November 2020, the Trust Fund issued its administrative decisions.

31. *Timing of collection, transmission and re-consolidation:* All four applications had been collected by the LRV himself back in 2016 and belong to the “Group of 409”.³⁵ All lacked the required supporting documentation at the time, which the LRV secured as part of the re-consolidation process. *Gender and age:* Three decisions relate to women and girls while one relates to a man. All are adults. *Type of claim and value of the award:* The four beneficiaries were found eligible for reparations of the moral harm suffered, consequently the amount to be awarded is [REDACTED]. Disbursement will occur in Francs CFA. The overall amount to be disbursed to these four beneficiaries is [REDACTED]. *Protected Building:* Two of these applications relate to the Sidi Mahmoud Ben Omar Mohamed Aquit mausoleum ([REDACTED]), one to the Sheihk Sidi El

³⁵ Applications of [REDACTED] had resulted in a negative decision issued on 16 April 2020 which was notified to the Trial Chamber by way of the Fourteenth Update Report. Applications of [REDACTED] and [REDACTED] had resulted in a negative decision issued on 19 June 2020 and notified to the Trial Chamber by way of the Fifteenth Update Report. In relation to [REDACTED], the Trust Fund notes that it belonged to a group of applications that the Trial Chamber deemed as containing a claim (Decision on LRV Requests for Review of Trust Fund for Victims’ Administrative Decisions on Individual Reparations Applications, 23 July 2020, ICC-01/12-01/15-369-Conf, footnote 96.

Mokhtar Ben Sidi Mouhammad Al Kounti mausoleum (██████████) and one to the Sheikh Sidi Ahmed Ben Amar Arragadi mausoleum (██████████).

Eleventh Batch (34 applications submitted and 32 decisions)

32. On 5 November 2020, the Trust Fund received from the VPRS a total of 34 applications forming the eleventh batch. The Trust Fund reviewed the eleventh batch in accordance with the amended review process as set out in the Decision on the Screening Process and issued its decisions on 20 November 2020.

33. Three applications were deemed incomplete: two applicants claimed to be descendant from two Saints but had nonetheless provided a supporting attestation in relation to only one Protected Building. A third application was considered incomplete as a result of the provision of a *Carte de service* as the sole ID. The Trust Fund sought additional information from the LRV in relation to all three applicants.

34. On 20 November 2020, having received the missing information sought in relation to one applicant,³⁶ the Trust Fund issued 32 positive administrative decisions, which are appended in the list of decisions in the Annex.

35. *Timing of collection:* all applications were jointly collected by the Trust Fund and the LRV during the joint mission in 2020. *Gender and age:* 18 decisions relate to women and girls while 14 relate to men and boys. 24 are minors. *Type of claim and value of the award:* All beneficiaries were found eligible for reparations of the moral harm suffered, consequently the amount to be awarded is ██████████. Disbursement will be done in Francs CFA. The overall amount for these victims is ██████████. *Protected Building:* Seven of these applications relate to the Ahmed Fulane mausoleum, 11 to the Baber Babédié mausoleum, two to the Sheikh Abdoul Kassim Attouaty and 12 to the Sheikh Sidi El Mokhtar Ben Sidi Mouhammad Al Kounti mausoleum.

36. The Defence has not made any observation within the 15-day deadline set forth in the Decision on the DIP and the Decision on the Screening Process.

37. The two applications for which the Trust Fund requested additional information remained pending with the Trust Fund and have been treated, upon receipt of additional information, together with the twelfth batch of applications.

³⁶ Email from TFV to the LRV on 12 November 2020 at 5:10 PM seeking additional information; Email from the LRV to the TFV on 17 November 2020 at 8:46 PM transmitting a valid ID.

Twelfth Batch (three applications submitted and five decisions)

38. On 20 November 2020, the VPRS transmitted 3 applications forming the twelfth batch. The Trust Fund reviewed the three applications in accordance with the amended review process as set out in the Decision on the Screening Process.

39. On 23 November 2020, the LRV secured the requested supplementary supporting documents concerning the two pending applications from the eleventh batch, namely the additional attestations of filiation, signed by a certifying authority, for the second Saint whose descentance was claimed.³⁷

40. On 7 December 2020, the Trust Fund issued cumulatively five positive decisions.

41. *Timing of collection:* all applications were jointly collected by the Trust Fund and the LRV during the joint mission in 2019 and 2020. *Gender and age:* 3 decisions relate to women and girls while 2 relate to men and boys. 2 are minors. *Type of claim and value of the award:* Five beneficiaries were found eligible for the moral harm suffered. Three of them were found to be descendants of one Saint; consequently, the amount to be awarded was [REDACTED]. Two of them were found to be descendants of two Saints; consequently, the amount awarded was [REDACTED] [REDACTED]. Disbursement will be done in Francs CFA. The overall amount for these five beneficiaries is [REDACTED]. *Protected Building:* Two of these applicants relate to the Ahmed Fulane mausoleum, 1 to the Sheihk Sidi Ahmed Ben Amar Arragadi and 2 to two mausoleums (Sheihk Sidi El Mokhtar Ben Sidi Mouhammad Al Kounti and Sheihk Sidi Ahmed Ben Amar Arragadi).

42. The Defence had not made any observation within the 15-day deadline set forth in the Decision on the DIP and the Decision on the Screening Process.

3. Re-consolidation of previously submitted application forms

43. As per the Decision on the LRV Requests, the LRV may attempt to re-consolidate a number of applications from the second, third, fourth, five, sixth and seventh batch.³⁸ This resulted in the submission of four reconsolidated applications of the Tenth Batch, as reported above.

44. A number of figures of authorities have reported to the Trust Fund that they have been approached repeatedly in relation to the same applications and underlined that they were asked multiple times about the same individuals. The Trust Fund recalls the

³⁷ Email from the LRV to the Trust Fund on 23 November 2020 at 11:59 AM

³⁸ See also Seventeenth Update Report, ICC-01/12-01/15-375-Conf-Exp, paras 35-39.

procedure agreed with the LRV³⁹ and advises that the re-consolidation process takes place in a coordinated manner (that is that figures of authorities are being asked only once about the same individual) and is completed as soon as practicable. The Trust Fund will engage with the LRV on this matter with a view of agreeing on how best to rapidly conclude the reconsolidation process and will revert to the Trial Chamber if necessary.

4. Consolidation of jointly collected attestations

45. As a result of the unavailability of [REDACTED] flights, the Trust Fund could not fly figures of authorities from Timbuktu to Bamako and the LRV had to continue the consolidation remotely.

46. The Trust Fund recalls that, as per the agreement reached with the LRV in October 2019, all application forms (be they jointly collected or through an intermediary) are handed over to the LRV who kept it his prerogative to consolidate them (that is to get the required attestations from the figures of authority).⁴⁰

47. Prior to the COVID-19 pandemic having an impact on the reparations process, in this case 18 March 2020, the Trust Fund and the LRV had jointly collected 533 applications. Of these 533 applications, the Trust Fund wishes to bring to the attention of the Trial Chamber that 285 have not yet been consolidated and/or transmitted to the Trust Fund. The Trust Fund is approached on a daily basis by multiple applicants enquiring as to the outcome of their applications. They are consistently informed that their dossier is being under consideration and that they can also approach their legal representative (*i.e.* the LRV) for further information. That being said, while victims fully understand that certain delays were incurred as a result of the global health situation, they are nonetheless getting impatient. By way of example, an applicant whose application was collected on 3 December 2019 approached the Trust Fund on 23 December 2020 enquiring on the status of their application, which the Trust Fund has not yet received. Similarly, the application of [REDACTED], a figure of authority for whom an attestation was not even required, was collected on 16 October 2019 and transmitted to the Trust Fund on 20 November 2020.

48. On 28 October 2020,⁴¹ at the initiative of the Trust Fund, a meeting was held with the LRV, resulting in an engaged and positive discussion with the LRV. The objective of

³⁹ Seventeenth Update Report, ICC-01/12-01/15-375-Conf-Exp, paras 35-36.

⁴⁰ Eleventh Update Report, ICC-01/12-01/15-336-Conf-Exp, para. 14.

⁴¹ Meeting held on 28 October 2020, minutes transmitted on 5 November 2020 at 3:03PM.

the meeting was to take stock of the situation and envisage ways to speeding up the process, identifying any potential sources of blockage, addressing them and ensuring that all applications collected since 2019 are consolidated and transmitted. During this meeting, the LRV proposed – and the Trust Fund strongly welcomed this proposal – to transmit at the very least 35 applications every two weeks and indicated to be confident that he could aim at 50 applications every two weeks. Since the meeting on 28 October 2020, 39 files in total were transmitted as opposed to the around 150 expected. The Trust Fund recognises that the LRV team was on mission from mid-November until mid-December, which potentially slows down the execution of the paperwork associated with transmitting application files. However, one of the purposes of the mission was to consolidate the dossiers and so far, no additional applications have been transmitted.

49. The Trust Fund has identified that the figures of authorities remain prepared to cooperate with the reparations process, to provide attestations and no particular network issue has been reported (beyond the standard disruption of networks). The Trust Fund welcomes that the LRV has agreed to have recourse to the Trust Fund's [REDACTED] as of 15 September 2020⁴². As mentioned above, over the course of 2020, the Trust Fund's [REDACTED] collected 230 application forms. Application forms are heavy documents (six pages and one or two additional pages containing copies of the ID documents). No particular issue has been encountered in relation their transmission. The transmission of the attestations should equally be feasible, and it appears that if there are any blockage they must lie elsewhere.

50. During the joint mission of November 2020, it became apparent that continuing with requiring separate *attestations de filiations* for each applicant may not be time efficient. Accordingly, the Trust Fund highly welcomed the initiative of the LRV to amend the form of the attestation de filiation so as to make it less cumbersome to process for his team. In short, instead of sending to the figures of authorities a one-page document for each applicant (which could sometimes result in one figure of authorities receiving dozens of documents at once), the LRV proposed to include all applicants in one single

⁴² On 15 September 2020, after multiple offers from the Trust Fund, the LRV requested authorization to work with the Trust fund's [REDACTED] (Email from LRV to Trust Fund on 15 September 2020 at 12:04pm) which the Trust Fund immediately agreed to (Email from Trust Fund to LRV on 15 September 2020 at 4:30pm). The Trust Fund is aware that cooperation has already started.

document by listing the names.⁴³ The Trust Fund agreed with this efficient approach without delay.⁴⁴

51. The Trust Fund is concerned that the more time elapses, the more the consolidation becomes a time-consuming and intense exercise. Indeed, it cannot be expected from the figures of authorities that they remember on the top of their heads the names of dozens of individuals. Accordingly, short conversations may need to take place to refresh their memory (that is indicate to them what is the common nickname of the person, or clarify their profession, or put them in context, *i.e.* indicate to the figure of authorities, in which neighbourhood they live etc).

52. On these bases, the Trust Fund is intensifying its contacts with the LRV on the issue of consolidating the application and requested a meeting early in January 2021 to address this matter and to identify the potential sources of blockage and finding solutions to them. The Trust Fund also recalls that it did not have and still does not have any objections as to the LRV's key role in collecting attestations. However, the Trust Fund stressed at the time – and still does so now – that it is prepared to assist the LRV or take the lead to ensure that the consolidation is conducted timely. The Trust Fund will report to the Trial Chamber about the progress made or seek further guidance, if necessary.

5. Modalities of the disbursement of payments

53. During the reporting period, the Trust Fund and the Registry's Legal Office continued the negotiation with the implementing partner in charge of disbursing the individual reparation awards - [REDACTED]. Issues related to the bank guarantee of the vendor, the procedure for reimbursement in case of issues arising with the payments, oversight and control of [REDACTED] were addressed. On 24 December 2020, [REDACTED] agreed to proceed with the signature.⁴⁵ Accordingly, the contract will be signed as soon as feasible in early January 2021, using a new e-signature system, which has been put in place as a pilot programme for the Trust Fund. This system allows all three parties involved (Trust Fund, ICC and implementing partner) to sign electronically, thereby avoiding that the hard

⁴³ Email from LRV to Trust Fund on 9 December 2020 at 5:31PM.

⁴⁴ Email from Trust Fund to LRV on the same date at 11:17pm. The Trust Fund deems it necessary that a figure of authority is provided with a simple method to accept or decline to attest and therefore suggested that tick boxes are added after the name of each applicant.

⁴⁵ Email from WARI on 24 December at 1:06PM.

copies of the contracts have to travel to [REDACTED] (where the headquarters of [REDACTED] is) and back.

54. In short, the Trust Fund is in a position to pay the individual reparation awards as of January 2021 and is already in contact with the families in this regard. Indeed, payments will be made on a rolling basis but in spite of the adherence to very strict confidentiality protocols and strong reminders to keep it confidential and adopt a low profile, it is expected that the news about the payment of a first batch of individuals will spread (especially because the potential beneficiaries are members of the same families). As a result, in order to avoid misplaced frustrations or impatience, the Trust Fund is preparing strong messages and will be disseminating them within the families so as to clarify that payments are made on a rolling basis.

55. Lastly, the Trust Fund recalls that the payments of the reparation awards are not conditioned, in that victims are free to use as they see fit. The Trust Fund is nonetheless exploring the appropriateness, on a case-by-case basis, to propose some technical support in relation to the best way to invest the award, *e.g.* via the Economic Resilience Facility (collective reparations for economic harm). In addition, women will get special attention upon disbursement of their reparation awards to ensure that they remain free to use their award as they see fit. The Trust Fund will conduct an evaluation of the satisfaction of victims and report any relevant matters to the Trial Chamber.

C. Collective reparations

56. *Contracts* – The contracts with the implementing partners selected for the reparations for economic harm (CIDEAL) and for the reparations for psychological harm ([REDACTED]) were signed on 16 November 2020 and the first payments to them will be disbursed in January 2021. As to the contract with UNESCO, it is in the final phase of negotiations. [REDACTED]

[REDACTED]
[REDACTED] r.

57. *Implementation* – In order to ensure a coordinated start of the activities, the Trust Fund organised a two-day workshop in Bamako with representatives of the three implementing partners (CIDEAL, [REDACTED] and UNESCO). Considering that all implementing partners will operate mostly in Timbuktu and will target overlapping

communities, the Trust Fund deemed it critical to integrate the projects and that implementing partners get to know each other and have a good knowledge of the other projects. Beyond that, the Trust Fund encouraged the implementing partners to put in place a coordination framework and to operate jointly in the field. Such a concerted action – under the guidance of the Trust Fund – would avoid *inter alia* the dissemination of various, contradictory or repeated messages towards the community and all persons involved. By way of example, all implementing partners expressed that they intend to approach the *chefs de quartiers* for identification and outreach purposes. Accordingly, the Trust Fund and the implementing partners will design a joint communication framework as well as a methodology permitting to approach jointly the community and affected persons. The Trust Fund also made sure that implementing partners have an understanding of the process that is underway in respect of the individual reparations. As a result of the workshop, the implementing partners agreed on the necessity to have a joint coordination and communication framework and to closely coordinate on the mechanisms of identifying potential beneficiaries. A further workshop will be organised in January 2021 to fine tune mechanisms of cooperation, after which CIDEAL will be in a position to launch the market survey and propose to the Trust Fund an eligibility mechanism.

58. In order to ensure that the beneficiaries of individual reparations understand and accept that other types of reparations will be awarded to other members of the community of Timbuktu, the Trust Fund also organised a working session between the implementing partners and selected members of the community of Timbuktu, including representatives of the families. Representatives of the families heavily insisted with the implementing partners and the Trust Fund that they would reject any measures perceived as “monetising” the mausoleums. The result of this one day working session, was that representatives of the families accepted that the destruction of mausoleums affected a larger group than only the families and that it was fair and important that these other groups of individuals are repaired as well. Members of the community of Timbuktu, including representatives of the families and implementing partners also agreed on the importance to strengthen the social, educational, cultural and religious life around the mausoleums as a result of the implementation of collective reparations, as well as to enhance the economic life revolving around the mausoleums.

D. Symbolic ceremony

59. As indicated above, during the mission to Bamako, the Trust Fund met with the newly appointed national authorities. The organisation of the symbolic ceremony was discussed, and all consulted ministers expressed their full support for its organisation and indicated that they are prepared to contribute ideas as to its unfolding to ensure that it is meaningful.

60. As to the date of the ceremony, all representatives of the national authorities indicated that the first quarter of 2021 was appropriate, as they will have to focus on the organisation of the elections that must take place at the end of the political transition, *i.e.* as of the second quarter 2021. In order to ensure that the ceremony can take place in early 2021, the Trust Fund has sent a *note* to relevant national authorities to ensure that preparatory work starts promptly.

61. Some of the representatives underlined the low symbolic value of handing over one euro, considering notably that it is a foreign currency and that money does not have a strong symbolic value in Mali. The Trust Fund is consulting with various local and national interlocutors to identify what object could be handed over, in lieu or in addition to, a symbolic euro and that would have a stronger symbolic value. If these consultations led to the conclusion that an additional object should be handed over to ensure sufficient symbolism, the Trust Fund would revert to the Trial Chamber with a concrete proposal.

E. Overarching matter: Reporting and grants management

62. One of the overarching issues that the Trust Fund has been working on for many months is the refinement of its grants management system in SAP for the disbursement of funds to the Trust Fund's implementing partners in the context of implementing reparation awards. Accordingly, the Trust Fund is currently conducting a review and update of the grants management system, which will enable the Trust Fund to improve the way in which expenditures and their funding source are captured, and which also supports and facilitates complying with reporting requirements, be it by the implementing partners to the Trust Fund or by the Trust Fund to the donors and to the Trial Chambers.⁴⁶

⁴⁶ The process that the Trust Fund follows in Grants Management ("GM") to create financial obligations includes the following steps: [REDACTED]

63. The implementing partners have to submit to the Trust Fund quarterly narrative and financial reports, which are reviewed by the Trust Fund. Upon acceptance of the quarterly financial reports, the related amounts are recorded in the grant management system. This procedure takes place every quarter of the financial year (not the contractual year) and continues until the end of the project, which is marked by the submission of a final report. In addition, the implementing partners submit detailed annual reports, which contain more detailed information about the impact of the project and contain the yearly financial report. This procedure is set out in the contracts concluded by Trust Fund/ICC and the relevant implementing partners. In addition, the Trust Fund has various reporting obligations to its donors as set out in the framework of each donation (e.g. in detailed memoranda of understanding or by *Note Verbale*).

64. Finally, the amended grants management system structure needs to take into account the Trust Fund's reporting obligations to the Trial Chamber, allowing for clear and efficient reporting to the Trial Chamber and the donors. The testing of this structure is currently ongoing and will be completed in early 2021.

F. Update on Trust Fund's assistance mandate

65. Encouraged by the Reparations Order,⁴⁷ the Trust Fund has taken steps to provide broader assistance for victims in Mali and has conducted an evaluation on the appropriateness to open a programme under its assistance mandate.

66. As a result, from March to September 2020, the Trust Fund has conducted an initial assessment to evaluate the opportunity to open an assistance program that complements national initiatives aimed at addressing the harm of victims. In this regard,

[REDACTED]

⁴⁷ Reparations Order, ICC-01/12-01/15-236, paras 108, 138 and disposition.

the Trust Fund has taken into account the fact that a national policy on reparations is currently under review at the ministers' level in Mali.⁴⁸

67. The assessment has shown that a certain level of frustration exists within the communities of victims as to the perceived priority given by the Trust Fund to a very limited group of potential beneficiaries of reparations measures (victims of the destructions of mausoleums in Timbuktu), while most victims having suffered harm of the crimes associated with the political and security crises since 2012 are located in other regions of Mali. Considering that the national reparation programme is not yet active, the assessment concluded that there is value in addressing the harm of certain groups of victims (most vulnerable) other than those belonging to the community of Timbuktu.

68. Consequently, on 10 November 2020, the Board of Directors of the Trust Fund decided to start an assistance programme in the regions of Gao and Mopti, on the condition that earmarked funds for the assistance programme be obtained.⁴⁹ In November 2020, the Trust Fund launched an expression of interest to identify future implementing partners.

G. Fundraising efforts to complement the reparation awards and human resources

69. The Trust Fund continued its efforts to secure a full complement of the reparation award. In this regard, the Trust Fund continued its negotiations with the Canadian Embassy and had to demonstrate, that the concrete implementation reparation measures will integrate gender issues properly. [REDACTED]

70. [REDACTED]

⁴⁸ The policy has been prepared by the sub-committee on reparations of the *Commissions Vérité Justice et Réconciliation*, which interviewed over 18 000 victims over the past few of years. The policy envisions an administrative commission for reparations to victims which should be operational by 2022 or 2023. The Trust Fund maintains close contacts with the national authorities in order to propose mechanisms that complement and support the national initiatives rather than mechanisms that would compete with them.

⁴⁹ See also, Press release on 27 November 2020, New measures for victims in Mali.

[REDACTED]
[REDACTED]
71. [REDACTED]
[REDACTED]

CONCLUSION

72. The Trust Fund respectfully requests the Trial Chamber to take note of the present report. The Trust Fund stands ready to provide clarification on any information provided in the present submission or on any other issue affecting the implementation phase of reparations in 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 29 December 2020
At The Hague, The Netherlands