

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 12 May 2017

TRIAL CHAMBER VIII

Before: Judge Raul C. Pangalangan, Single Judge

SITUATION IN THE REPUBLIC OF MALI

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

Public

Decision Granting an Extension of Time for Filing of TFC Submissions

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

Office of the Prosecutor

Ms Fatou Bensouda

Mr James Stewart

Mr Gilles Dutertre

Counsel for the Defence

Mr Mohamed Aouini

Legal Representatives of Victims

Mr Mayombo Kassongo

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**Office of Public Counsel for
Victims**

Office of Public Counsel for the Defence

States' Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

Others

Trust Fund for Victims

Judge Raul C. Pangalangan, acting as Single Judge on behalf of Trial Chamber VIII ('Single Judge' and 'Chamber', respectively) of the International Criminal Court ('Court') issues the following 'Decision Granting an Extension of Time for Filing of TFF Submissions', in the case of *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, having regard to Regulation 35 of the Regulations of the Court ('Regulations').

1. On 29 September 2016, the Chamber issued the Reparations Phase Calendar, setting, *inter alia*, deadlines for the submission of expert reports and for final submissions.¹
2. On 9 March 2017, upon request from the experts appointed to prepare the reports,² the Chamber amended the Reparations Phase Calendar and set the deadline for submission of expert reports to 28 April 2017 and for final submissions by the parties and the Trust Fund for Victims ('TFV') to 26 May 2017.³
3. On 1 May 2017, the expert reports were filed.⁴ The parties were notified of the reports on 3 May 2017⁵ and the TFV was notified on 4 May 2017.⁶
4. On 10 May 2017, the TFV sought a three week extension of time to file its final submissions ('TFV Request').⁷ It argues that: (i) it is subjected to competing obligations emanating from the case of *The Prosecutor v. Germain Katanga* ('Katanga case');⁸ (ii) the Board of Directors Annual Meeting is scheduled to take place from 16 to 18 May 2017, and its preparation requires the TFV to dedicate its resources thereto;⁹ and (iii) the review process of filings prepared by the Secretariat of the TFV

¹ ICC-01/12-01/15-172.

² Transmission of Request from the Reparations Experts for an Extension of Time for the Submission of their Report(s) pursuant to ICC-01/12-01/15-203-Red, 8 March 2017, ICC-01/12-01/15-205 with two annexes.

³ Public redacted version of 'Decision Granting an Extension of Time for Filing of Experts' Report and Amending Reparations Calendar', 9 March 2017, ICC-01/12-01/15-206-Red.

⁴ Transmission of Experts' Reports pursuant to Trial Chamber Decision ICC-01/12-01/15-203-Red of 19 January 2017, ICC-01-12-01/15-214 with three annexes.

⁵ Transmission of Redacted Versions of Experts' Reports pursuant to Trial Chamber Decision ICC-01/12-01/15-203-Red of 19 January 2017 ICC-01/12-01/15-215 with three annexes.

⁶ See email from Chamber to Registry on 4 May 2017 at 13:22.

⁷ Public redacted version of "Request for an extension of time", ICC-01/12-01/15-216-Red

⁸ TFV Request, ICC-01/12-01/15-216-Red, paras 8-10.

⁹ TFV Request, ICC-01/12-01/15-216-Red, paras 11-12.

takes a minimum of five working days considering that the Board of Directors are not located at the Court and act in a voluntary capacity.¹⁰

5. On 11 May 2017, by way of email, the Single Judge set the deadline for response to the TFV Request to Friday 12 May 2017 at 12:00.¹¹

6. On 12 May 2017, the defence team for Mr Al Mahdi ('Defence') responded to the TFV Request ('Defence Response').¹² It does not oppose it and seeks a four week extension of time. The Defence argues that it needs more time to process the materials transmitted to the Registry on 24 April 2017 and that it is not in a position to make meaningful submissions on the reports until they are translated into French.¹³ Further, the Defence requests the authorisation to file observations after the TFV has filed theirs.

7. The Single Judge notes that the Request is unopposed. Further, the Single Judge considers that good cause has been shown within the meaning of Regulation 35 of the Regulations of the Court. In particular, the Single Judge notes the competing obligations faced by the TFV and the fact that the deadline set by Trial Chamber II in the *Katanga* case could not be anticipated by the TFV.

8. In the interest of fairness, the Single Judge grants the same extension of time to the Legal Representative of Victims ('LRV') and to the Defence.

9. However, the Single Judge rejects the Defence's request for authorisation to submit observations after the submission of the TFV's final submissions. First, it is untimely since the Defence was on notice since 19 January 2017 that the Chamber had not envisioned an opportunity to respond to the TFV's final submissions.¹⁴ Second, it is recalled that the TFV is not a party to the reparations proceedings, in

¹⁰ TFV Request, ICC-01/12-01/15-216-Red, para.13.

¹¹ Email from Single Judge to parties on 11 May 2017 at 10:58.

¹² *Réponse à la requête de prorogation de délai du Fonds au profit des victimes (ICC-01/12-01/15-216-Red) et demande de prorogation de délai*, ICC-01/12-01-15-217.

¹³ Defence Response, ICC-01/12-01/15-217, paras 14-15.

¹⁴ Public redacted version of "Decision Appointing Reparations Experts and Partly Amending Reparations Calendar", 19 January 2017, ICC-01/12-01/15-203-Red.

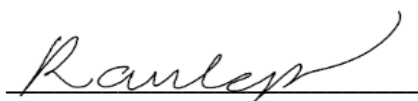
particular at this stage, but that it is acting as an advisory expert to the Chamber. Thus, its submissions are expected to be of such nature that they will not prejudice the rights of the Defence. As for the issue of French translations of the expert reports, the Defence has been reacting to English submissions, evidence and Chamber orders since the beginning of the trial phase. The Chamber fails to see why the Defence is not capable of responding to the expert reports written in English, noting that it is also entitled to seek translation assistance from the Registry should it wish to do so.¹⁵

FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY

GRANTS the TFV Request; and

EXTENDS the deadline for final submissions on reparations for the LRV, Defence and TFV to 16 June 2017.

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



Judge Raul C. Pangalangan, Single Judge

Dated 12 May 2017

At The Hague, The Netherlands

¹⁵ Indeed, the Defence indicates that it has already sought this assistance. Response, ICC-01/12-01/15-217, para. 14.