

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 14 February 2019
Date: 8 September 2021

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

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

Mr Mohamed Aouini

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

States' Representatives

REGISTRY

Registrar

Counsel Support Section

Mr Peter Lewis

Victims and Witnesses Unit

Detention Section

Mr Nigel Verrill

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

I. BACKGROUND

1. On 12 July 2018, Trial Chamber VIII issued its decision on the Trust Fund for Victims' draft implementation plan in the present case ("Trust Fund"),¹ wherein it directed the Trust Fund to submit monthly update reports, starting on 15 August 2018, in relation to the Trust Fund's progress in preparing an updated draft implementation plan ("UIP"). The Trial Chamber specified that each monthly update report should contain "concrete information on the actions taken in respect of each of the reparations modalities with timelines, objectives and staffing".²
2. On 15 August 2018, 14 September 2018, 15 October 2018, 14 November 2018, 14 December 2018 and 14 January 2019, the Trust Fund filed, respectively, its first,³ second,⁴ third⁵, fourth⁶, fifth⁷ and sixth⁸ monthly update reports.
3. On 2 November 2018, the Trust Fund filed the UIP.⁹
4. On 21 November 2018, the Trial Chamber adopted the new application form for individual reparations awards proposed by the Trust Fund, subject to one change.¹⁰
5. On 8 January 2019, the Registry transmitted the observations by the Malian authorities on the UIP.¹¹

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](#) ("Decision on the DIP").

² [Decision on the DIP](#), para. 22.

³ First monthly update report on the implementation plan, 15 August 2018, ICC-01/12-01/15-277-Conf ("First Monthly Report").

⁴ 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").

⁵ Third monthly update report on the updated implementation plan, 15 October 2018, ICC-01/12-01/15-288-Conf ("Third Monthly Report").

⁶ 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").

⁷ 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.

⁸ Sixth monthly update report on the updated implementation plan, 14 January 2019, ICC-01/12-01/15-314-Conf ("Sixth Monthly Report").

⁹ 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 22 November 2018, ICC-01/12-01/15-291-Conf-Exp", 22 November 2018, [ICC-01/12-01/15-291-Red2](#).

¹⁰ Decision on TFV Submission on Draft Application Form, 21 November 2018, ICC-01/12-01/15-301.

¹¹ Transmission of Observations from the Malian Authorities on the Updated Implementation Plan with one confidential annex, 8 January 2019, ICC-01/12-01/15-312 ("Malian Authorities Observations on the UIP").

6. On 15 January 2019, the legal representative of victims in the case (“LRV”) and the Defence submitted their observations on the UIP.¹²

7. On 30 January 2019, the Defence submitted observations on the sixth monthly update report.¹³

8. The Trust Fund hereby submits its seventh monthly update report.

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 confidential in line with the reasoning for its previous update reports.¹⁴ No information is deemed necessary to redact from the parties.¹⁵

III. UPDATE REPORT OF 14 FEBRUARY 2019

10. The Trust Fund notes and welcomes the positive observations submitted by the LRV, the Defence, as well as the Malian authorities, on the UIP.¹⁶

11. Pending the eventual approval of the UIP by the Trial Chamber, the Trust Fund has been making progress on aspects for which advanced planning can occur prior to the issuance of the Trial Chamber’s decision.

A. Individual reparations awards

12. In respect of individual reparations, the Trust Fund has finalised the first draft of the training guidelines for intermediaries, which will be shared shortly with the Victims Participation and Reparations Section (“VPRS”) and the LRV for their comments.

13. The Trust Fund wishes to express its appreciation of the assistance provided by VPR in the field and the VPRS field coordinator in the development of the training

¹² *Observations du Représentant légal des victimes sur la version mise à jour du plan de mise en oeuvre des réparations du Fonds au profit des victimes*, 15 January 2019, ICC-01/12-01/15-315-Conf (“LRV Observations on the UIP”); *Observations finales de la Défense sur le plan de mise en œuvre des réparations ICC-01/12-01/15-291-Conf et sur les observations ICC-01/12-01/15-312-Conf-Anx du Mali*, 15 January 2019, ICC-01/12-01/15-316-Conf (“Defense Observations on the UIP”).

¹³ *Observations de la Défense sur le sixième rapport mensuel (ICC-01/12-01/15-314-Conf) du Fonds au profit des victimes*, 30 January 2019, ICC-01/12-01/15-318-Conf.

¹⁴ First Monthly Report, para. 3; Second Monthly Report, para. 8; and Third Monthly Report, para. 13.

¹⁵ [Decision on the DIP](#), para. 22.

¹⁶ LRV Observations on the UIP; Defense Observations on the UIP; Malian Authorities’ Observations on the UIP.

guidelines.¹⁷ The training guidelines focus on the role of the Court and the Trust Fund, background on the *Al Mahdi* case, the reparations ordered by the Trial Chamber with a special emphasis on the individual awards, the role of intermediaries and, as the primary focus, how to assist potential beneficiaries in completing the application form for the individual reparations. The intermediary training is scheduled to take place over a period of three to five days during [REDACTED], but finalisation of the dates is dependent upon the availability of the potential intermediaries.

14. In addition, on 23 January 2019, the Trust Fund and VPRS held an initial meeting concerning the template for their preliminary assessments of applicants for individual reparations.¹⁸ The Trust Fund wishes to express its gratitude to VPRS in initiating this important exchange and preparing the draft template that formed the basis of the discussion.

15. The Trust Fund has also remained in regular contact with the LRV on a variety of topics. On 1 February 2019, the LRV contacted the Trust Fund regarding a new *modèle d'attestation* (a residence certificate) that it had independently prepared with the input of VPRS.¹⁹ This proposed *attestation* is meant to address the eligibility criteria that the beneficiary has a sufficient connection to the Timbuktu community.²⁰ The Trust Fund wishes to highlight its appreciation for the diligence with which the LRV has sought to complete his clients' applications in relation to the criteria established by the Trial Chamber. However, the Trust Fund, guided by the desire to avoid requiring of potential beneficiaries more documentation than is necessary, has communicated to both the LRV and VPRS that it does not consider that this *attestation* is needed for the following reasons.

16. The Trust Fund recalls that, following full consultation with VPRS and the LRV, it submitted the three *attestations* to be used for both of the individual reparations

¹⁷ For example, on 18 January 2019, the Trust Fund met with the VPRS field coordinator and the field officer based in Bamako to discuss practical details concerning the training of intermediaries and the style of the training guidelines.

¹⁸ At this meeting, details of the draft template were discussed, as well as the way forward regarding communication during the screening process.

¹⁹ In addition to the fact that the Trust Fund considers that this attestation is not required, the Trust Fund raised concerns regarding the inclusion of the question on the value of the house of the potential beneficiary in the proposed *attestation*. The Trust Fund considers that requesting this information is likely to unduly raise victims' expectations and is not relevant for either of the individual awards.

²⁰ [Decision on the DIP](#), para 60, in particular footnote 108, referring to, *inter alia*, para. 106 of the Draft Implementation Plan (ICC-01/12-01/15-265-Corr-Red).

awards, *i.e.* economic and moral compensation.²¹ The Trust Fund considers that these documents already establish the required connection to Timbuktu.

17. In relation to the economic compensation award, the Trust Fund notes that the *attestation d'activité et de revenu* already contains a statement that the individual was carrying out these economic activities in Timbuktu during the relevant time period of the crime.²² Put simply, it is the Trust Fund's position that a person who has demonstrated, by submitting a signed *attestation d'activité et de revenu*, that they met the exclusive link requirement, will have also demonstrated a sufficient connection to Timbuktu and no additional *attestation de résidence* is necessary.

18. The Trust Fund also considers that the required link to Timbuktu is satisfied in relation to moral harm because the *modèle d'attestation de filiation* already requires to provide the applicant's place of birth.²³ In addition to the *attestation*, applicants are requested to submit an identity document, which may specify their place of birth and/or current address.²⁴ This may also be of relevance for proving the required link with the community of Timbuktu as far as direct descendants are concerned.

19. Lastly, the Trust Fund observes that, as explicitly stated by the Trial Chamber in its order for reparations, the application process is only relevant to the individual awards and not the collective awards.²⁵ In this regard, the Trust Fund wishes to stress that it does not intend, nor does it consider it to be appropriate, to use or require an *attestation de résidence* for the collective awards.

20. Finally, during the reporting period, the Trust Fund has also undertaken field activities in relation to the individual awards process. The Associate Field Program Officer ("AFPO") *de facto* in Mali is currently conducting research to establish the lists of prominent families associated with the Protected Buildings. Further, in respect of the outreach campaign and the upcoming intermediaries training, the AFPO collected the

²¹ Annex 2, 3 and 4 to the Fourth Monthly Report.

²² See, for example, Annex 2 to the Fourth Monthly Report, requiring that the applicant provide the following information:

Mademoiselle/Madame/Monsieur (Nom, Prénom)..... Né(e) le (JJ/MM/AAAA)..... à (Ville, Pays)..... occupait, pendant la période comprise entre le 30 juin et le 11 juillet 2012, les fonctions suivantes[...].

²³ See Annex 4 to the Fourth Monthly Report.

²⁴ See Annex I to the Fifth Registry Report on Applications for Individual Reparations, 20 December, 2018, ICC-01/12-01/15-308-Conf-AnxI, para. 3.

²⁵ Reparations Order, ICC-01/12-01/15-236, para. 144.

identity of potential intermediaries and held several working sessions with Ms Mama Koite, TFV-board member,²⁶ the VPR-Bamako staff²⁷ and the LRV.²⁸

B. Collective reparations awards

21. In respect of collective reparations, the Trust Fund held a meeting with the Procurement Unit to discuss the draft Expression of Interest for the implementation of the collective reparations programme.

22. On 21 January 2019, the Trust Fund had a meeting with the Procurement Unit and the Legal Office, at which it discussed potential cooperation agreements [REDACTED] including internal processes that need to take place before reaching an agreement. In the field, the AFPO has also engaged with UNESCO and [REDACTED] in relation to the activities that would be covered by any such cooperation agreements.

C. Security related update

23. On 31 January 2019, the Trust Fund met with the VPRS field coordinator and the Victims and Witness Section (“VWS”) to be briefed on current issues that could have an impact on the security of victims in Mali. VWS conveyed that persons linked with radical organisations have reportedly infiltrated or bear influence over the *qadi* system, and in the provision of judicial related services normally carried out by state authorities (now absent in the north). VWS offered to perform cursory background research regarding the traditional leaders and other officials currently signing *modèles d’attestation* for the potential beneficiaries, in order to gauge the possibility of them posing a threat to victims.

24. In this respect, the Trust Fund reiterates its request to the LRV to supply their background information, and encourages him to also provide their full name and ID documents as soon as possible.

25. On 4 February 2019, the Trust Fund met an independent expert knowledgeable of the situation in Mali and Timbuktu in particular. The expert confirmed that caution needs to be exercised when dealing with traditional authorities as some of them could be newly established leaders with links to extremist groups, or leaders without direct

²⁶ The meeting was held on 12 February 2019.

²⁷ Meetings were held on 24, 30 January and on 11 February 2019.

²⁸ Meetings were held on 29 January and 12 February 2019.

knowledge of the affairs in Timbuktu. The expert also advised, among other things, on the need to coordinate in time the implementation of individual and collective reparations given the tightly-knitted nature of the social fabric in Timbuktu and the risk of creating jealousy and disrupting their internal social cohesion.

IV. CONCLUSION

26. The Trust Fund stands ready to further appraise the Trial Chamber in relation to the information provided in this monthly report, 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 14 February 2019
At The Hague, The Netherlands