

**Cour
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**International
Criminal
Court**

Original: **English**

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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 “Nineteenth update report on the updated implementation plan”, submitted on 1 March 2021, ICC-01/12-01/15-381-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

Mr Mayombo Kassongo

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

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REGISTRY

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Mr Philipp Ambach

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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, 26 October 2020 and 29 December 2020, the Trust Fund filed its first,⁵ second,⁶ third⁷, fourth⁸, fifth⁹, sixth,¹⁰ seventh,¹¹ eighth,¹²

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”).

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.

ninth,¹³ tenth,¹⁴ eleventh¹⁵, twelfth,¹⁶ thirteenth,¹⁷ fourteenth,¹⁸ fifteenth,¹⁹ sixteenth,²⁰ seventeenth,²¹ and eighteenth²² 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, 14 October 2020, 4 November 2020, 20 November 2020, 7 December 2020, 28 January 2021 and 18 February 2021 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), 130 positive administrative decisions (ninth batch), four positive administrative decisions (tenth batch), 32 positive administrative decisions (eleventh batch), five positive administrative decisions (twelfth batch), five positive administrative decisions (thirteenth batch) and 96 positive administrative decisions (fourteenth batch). In accordance with the new screening procedure, the decisions from the fourteenth batch will become final on 5 March 2021.

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 conditions are met: (i) the lifting of travel restrictions; (ii) the lifting of prohibitions of

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).

²² Eighteenth update report on the updated implementation plan, with 1 confidential, *ex parte* annex available to the LRV and the Registry, 29 December 2020, ICC-01/12-01/15-377-Conf (Eighteenth Update Report).

gatherings in Mali; and (iii) the lifting of restrictions put in place by ██████████²³ The Trial Chamber further noted that this decision impacts on its expectations to issue any and all individual reparations reviews by early March 2021.²⁴

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, “by having recourse to the certifying authorities approved by the TFV, and to re-submit the applications with valid attestations for a renewed assessment by the TFV” by the deadline set by the Trial chamber in decision ICC-01/12-01/15-359-Conf. The Trial Chamber added that “the LRV is directed to carefully assess whether additional information may need to be gathered from the applications in order to further support and/or specify their claims” and to also “consider whether, on the basis of the information received from the applicants, it may be more appropriate to explain the contours of the Reparations Order in detail to the applicants in order to manage their expectations as concerns potentially receiving individual reparation awards”.²⁵

6. On 3 September 2020, the Trial Chamber issued a Decision on the LRV Request for Authorisation to Re-Consolidate Individual Reparations Applications.²⁶

7. On 23 September 2020, upon a request from the Trust Fund,²⁷ the Trial Chamber issued a decision simplifying considerably the screening process (“Decision on Screening Process”).²⁸

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.²⁹

²³ Decision on the LRV Request for an Extension of Time to Submit Individual Reparations Applications, ICC-01/12-01/15-359-Conf, para. 13.

²⁴ Decision on the LRV Request for an Extension of Time to Submit Individual Reparations Applications, ICC-01/12-01/15-359-Conf, para. 15.

²⁵ 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.

²⁶ Decision 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.

²⁷ Trust Fund’s submission on the amendment of the screening process, 2 September 2020, ICC-01/12-01/15-372-Conf.

²⁸ Decision on the TFV Request for amendment of the Screening Process, 23 September 2020, ICC-01/12-01/15-374-Conf.

²⁹ 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](#).

9. On 17 February 2021, the Trial Chamber, upon a request from the Trust Fund³⁰, amended the reporting schedule: accordingly, the Trust Fund is to submit update reports every three months, starting with the 20th update report due in May.

II. CLASSIFICATION OF THE PRESENT SUBMISSION

10. 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.³¹ A public redacted version will be filed as soon as feasible.

III. UPDATE REPORT OF 29 DECEMBER 2020

11. The present report covers the period from 29 December 2020 onwards.

A. Trust Fund's mission to Bamako

12. During the reporting period, the political and security situation remained relatively stable³² permitting the Trust Fund to conduct two missions to Bamako from ■ to ■ February 2021 and from ■ February 2021 to ■ March 2021.

13. The Trust Fund's missions had multiple goals, notably: (i) launching the payment of individual reparations; (ii) work on the collective reparations with the implementing partners; and (iii) meet with the national authorities to plan the symbolic reparation award ceremony. Details of the progresses made during those missions are reported in the relevant sections below.

B. Individual reparation awards

14. During the reporting period, the Trust Fund is pleased to report that it launched the payment of the individual reparations awards. The Board of Directors also issued 101 positive eligibility decisions. In addition, 14 applications were collected.

1. Collection of applications

³⁰ Request to submit update reports on the implementation of reparations every three months, 10 February 2021, ICC-01/12-01/15-379.

³¹ See First Monthly Report, para. 3; Second Monthly Report, para. 8.

³² See Eighteenth Update Report (ICC-01/12-01/15-377-Conf), paras 13, 14. Additionally, restrictions on gatherings continue to apply.

15. The Trust Fund recalls the decision of the Trial Chamber on the deadline and the conditions set out by the Trial Chamber relevant to that deadline that have not yet been cumulatively fulfilled.³³

16. The Trust Fund notes that the Legal Representative is in the process of consolidating the jointly collected applications, by contacting the authorities approved by the Trust Fund to attest whether the relevant applicants are descendants or were fully economically dependent on the mausolea.

17. During the reporting period, the Trust Fund did *not* actively continue the collection of applications. At the current stage, the Trust Fund only collects those applications emanating from “residual” individuals, i.e. individuals approaching the Trust Fund or the LRV on their own initiative. The Trust Fund collected (through its intermediary) and transmitted to the LRV³⁴ ■ applications, corresponding to ■ applications emanating from descendants of the Sidi Yahia family and ■ from descendants of the Saint Ahmed Fulane, all residing in Timbuktu. Additionally, on ■ and ■ March 2021, the Trust Fund will collect the applications of ■ individuals identified by the Trust Fund and approximately ■ individuals who came forward, mostly from the ■. Taking into account these applications as well, the number of applications jointly collected will be 1019.³⁵

18. While it is *not* expected that this number will grow much more, the following five factors will have an influence on the final number. First, further checks will be conducted periodically to ensure an absolute accuracy of the statistics. Second, a very limited number of applications collected and transmitted to the LRV may ultimately *not* be transmitted to the Trust Fund (for instance if an applicant decides to withdraw his or her application). Third, the LRV will still collect a limited number of applications from individuals residing in Niger and Burkina Faso. Fourth, a limited number of applicants may still come forward as a result of the spreading of the news that individual reparations are actually being paid, which may convince those who were initially reluctant to submit

³³ Decision on the LRV Request for Extension of Time to Submit Individual Reparations Applications, 29 April 2020, ICC-01/12-01/15-359-Conf, paras 13-15 and disposition.

³⁴ E-mails from the Trust Fund to LRV on 25 February 2021, at 12:23, 12:24 and 12:25, and on 26 February 2021, at 11:59.

³⁵ This number may still vary as a result of: (i) the collection of a limited number of additional applications; and (ii) the fact that the LRV may not transmit the totality of the applications (for instance in the rare case when a victim wishes to withdraw his or her application).

an application. Fifth, an important group of ██████ has addressed the Trust Fund at the end of 2020, indicating to be direct descendants of ██████. The Trust Fund is still in the process of establishing whether or not they might be eligible *prima facie*, so as to not engage intense resources into the collection of applications³⁶ which would ultimately be rejected.

2. Administrative decisions

19. During the reporting period, 101 decisions (all positive) were issued by the Trust Fund.

20. To those decisions belong five decisions on applications that had been submitted to the Trust Fund with the ninth transmission of applications by the VPRS but due to missing information had not yet been decided. The LRV submitted this information recently.³⁷ The Trust Fund issued these decisions as the thirteenth batch of administrative decisions.

21. On 3 February 2021, one batch of 102 applications was transmitted to the Trust Fund by the VPRS (thirteenth transmission of applications by the VPRS). On 18 February 2021, the Board of Directors issued 96 positive decisions on applications included in the thirteenth transmission of applications as the fourteenth batch of administrative decisions. This brings the number of decisions issued to 762, out of which 360 are positive (96 of them, corresponding to the fourteenth batch, not final yet) and 402 negative (four of them were later amended to positive decisions, while 398 remain negative).

22. Due to his election as Judge of the Court, Gocha Lordkipanidze resigned on 2 February 2021 with immediate effect from his position as Board member. Accordingly, Baroness Arminka Helić has been assigned to issue, on behalf of the Board of Directors, the individual eligibility decisions in this case.

23. The list of victims found eligible as part of the thirteenth batch is appended in the Annex. The list of victims found eligible in the fourteenth batch will be appended in the next update report.

³⁶ ██████
██████
██████
██████.

³⁷ By e-mail on 18 January 2021, at 15:28, and on 26 January 2021, at 13:28.

Thirteenth batch (5 decisions on consolidated applications from the ninth batch)

24. On 29 September 2020, the Trust Fund received from the VPRS a total of 136 applications (ninth transmission). Six applications were found to be incomplete. In accordance with the Decision on the Screening Process,³⁸ on 7 October 2020 the Trust Fund requested the LRV to submit the missing documents.³⁹ On 14 October 2020, the Trust Fund issued 130 positive administrative decisions and deferred its decision as to the six incomplete applications, which remained pending with the TFV since.

25. On 18 and 26 January 2021, the LRV submitted the requested supplementary documents in support of five of the six incomplete applications.⁴⁰

26. One application ([REDACTED]) was submitted on behalf of an adult with a disability by another adult without the supporting proof of delegation of authority, which was provided by the LRV in the form of a power of attorney (*procuration*) by the adult applicant in favour of the family member having submitted the application. A second application ([REDACTED]) was submitted on behalf of an adult with a disability by another adult without the supporting proof of delegation of authority; the LRV secured a delegation of authority by the acting adult declaring kinship to, and the authority to act on behalf of the applicant. Three applications ([REDACTED]) were submitted on behalf of minors by adults different from their parents; the LRV secured delegations of authority from the parents of the minor applicants authorizing the third adults who submitted the application to act on behalf the respective children.

27. The sixth incomplete application from the ninth transmission is still on file with the TFV pending the submission by the LRV of the requested missing documentation.

28. The five positive decisions adopted by the Trust Fund as the thirteenth batch of administrative decisions are appended in the Annex.

29. ***Timing of collection:*** all applications were jointly collected by the Trust Fund and the LRV during the joint missions in 2020. ***Sex and age:*** four decisions relate to female applicants, three of whom are minors. One decision relates to an adult man. ***Type of claim and value of the award:*** the five applicants were found eligible for reparations for the moral harm suffered as direct descendants of one Saint; the amount to be awarded is [REDACTED]

³⁸ Decision on the TFV Request for Amendment of the Screening Process, 23 September 2020, ICC-01/12-01/15-374-Conf, para. 4.

³⁹ Email from the Trust Fund to the LRV on 7 October 2020, at 17:49

⁴⁰ By e-mail on 18 January 2021, at 15:28, and on 26 January 2021, at 13:28.

█ each, to be disbursed in Francs CFA for an overall amount of █. **Protected Building:** the five beneficiaries have been acknowledged as direct descendants of the Saint buried in the Ahmed Fulane mausoleum.

Fourteenth Batch (102 applications, 96 positive decisions)

30. On 3 February 2021, the Trust Fund received from the VPRS a total of 102 applications (thirteenth transmission). Six of them were found to be incomplete. In accordance with the Decision on the Screening Process,⁴¹ on 16 February 2021, the Trust Fund requested the LRV to submit the missing documents and additional information.⁴² On 18 February 2021, the Trust Fund adopted 96 positive administrative decisions out of the 102 applications transmitted.

31. On 23 February 2021,⁴³ the LRV submitted the requested missing documents and information in support of four of the six incomplete applications. Administrative decisions on the four consolidated applications will be adopted by the Trust Fund within the set time limit of 15 days.

32. On 1 March 2021, the day of issuance of this Update Report, the 15-day period for the Defence to make submission on the 96 positive decisions is still pending. Therefore, the Trust Fund will transmit them to the Chamber as an Annex to its next update report once they will become final. Nevertheless, the Trust Fund intends to provide the Chamber with an overview on the fourteenth batch of administrative as follows.

33. **Timing of collection:** 101 of the 102 applications were collected jointly by the Trust Fund and the LRV between January and December 2020,⁴⁴ and one by the LRV himself in 2016, supplemented by information secured in 2020 by the Trust Fund's intermediary. **Sex and age:** of the 96 positive decisions adopted, 52 relate to women and girls while 44 relate to men and boys, with 20 minors in total. **Type of claim and value of the award:** all 96 beneficiaries were found to be direct descendants of one Saint; all of them were found to be eligible for reparations for the moral harm suffered and the amount to be awarded to each beneficiary is █. One beneficiary was found to be eligible also for reparations for the economic harm suffered and will therefore be awarded in

⁴¹ Decision on the TFV Request for Amendment of the Screening Process (23 September 2020) ICC-01/12-01/15-374-Conf, para. 4.

⁴² E-mail from the Trust Fund to the LRV on 16 February 2021, at 13:47

⁴³ Email by the LRV to the Trust Fund on 23 February 2021, at 11:29

⁴⁴ At least 15 forms were collected by the Trust Fund's intermediary.

addition [REDACTED], and accordingly the cumulative amount of [REDACTED]. The overall amount to be awarded to the 96 beneficiaries is [REDACTED]; disbursement will be done in Francs CFA. *Protected Buildings*: two decisions relate to the Ahmed Fulane mausoleum, 84 to the Bahaber Babadié mausoleum and 10 to the Sidi Mahamoud Ben Omar Mohamed Aquit mausoleum.

3. Notification of positive decisions, payment of the individual reparation awards and modalities of the disbursement of payments

34. During the reporting period, the Trust Fund started notifying victims and paying the first individual reparations to a pilot group of twelve selected beneficiaries.

35. *Methodology of notification* – The Trust Fund decided to proceed to the notification and the payment of a first group of beneficiaries (selected jointly with the LRV) without having recourse to any intermediaries (being for the notification or for the payment) in order to be able to evaluate the methodology chosen and make any adjustments if necessary. Notification of individual beneficiaries were effectuated by way of a personalised phone call. While this solution may not be ideal as it is extremely time consuming (on average the phone calls lasted about 30 minutes per victim), it was deemed necessary as this phone call aims at ensuring the eligibility decision is well understood by the victim and the modalities of payment are convenient and safe for them, and offering a space for discussion about the reparation. As a result, emphasis has been put on listening to the victims, recalling what the reparations are for, and answering any questions they may have. Taking the time to interact with each victim and ensure that they understand the reasons why they have been awarded reparations proved to be critical to ensuring that their experience of receiving reparations is a positive and solemn event, and that it provides them with some relief and gives them closure, to the extent feasible, in relation to the harm suffered as a result of the destruction of the Protected Buildings.

36. The Trust Fund, in consultation with the LRV, notified the beneficiaries individually, and not collectively, for two reasons. First, a number of vulnerable beneficiaries may otherwise be compelled by other members of the family to give them the compensation received. By way of example, one victim ([REDACTED]) who was notified of the positive decision issued and awarded the monetary compensation insisted with the Trust Fund and the LRV that the reparation award of each member of his family

be paid to [REDACTED] While the Trust Fund and the LRV explained that this is not the contemplated way forward and that each individual will receive their own reparations award, this demonstrates the need to keep the payment of the award confidential, in particular when it comes to young beneficiaries as well as women.

37. Second, travel and sanitary restrictions continue to apply in Mali. Accordingly, it is simply not feasible to gather large groups of individuals.

38. Telephone conversations instead of personal meetings were agreed with the LRV because [REDACTED] continues to recommend the suspension of all missions to Timbuktu. Accordingly, proceeding with individual meetings in person is entirely unfeasible and even contrary to the rights of the victims, as it would delay the moment they are receiving their reparation.

39. *Selection of the pilot group of victims notified* –. The Trust Fund selected the first group of beneficiaries to be notified, taking into account the following factors: the date when the decision was issued; the date when the form was collected; and, to ensure, to the extent possible, that one representative of each family is paid to avoid causing a perception of unfairness within the community. The Trust Fund proceeded with the immediate payment of the four clients of the LRV whose application forms had been collected as early as 2016.⁴⁵ In selecting the first group, the Trust Fund also endeavoured to include individuals who are perceived as “leaders” in their family or act as focal points with the Trust Fund. This was done in anticipation of the fact that the information of the first payment may spread and that these focal points or family leaders might be approached by their families seeking information. Therefore, in selecting these individuals, the Trust Fund took into account, to the extent possible, whether these individuals would maintain discretion about their payment but could, at the same time, respond to queries of their family members. Lastly, the Trust Fund endeavoured to strive towards a gender balance in the selection of the first beneficiaries.⁴⁶ Upon compiling a first list the Trust Fund proposed it to the LRV. He made an additional suggestion (which was taken into account) and then agreed with the list.

⁴⁵ That this the four individuals for whom a positive decision was issued, after their file was re-submitted following the rejection of their application.

⁴⁶ It must be noted however that in light of the specificity of the situation, the Trust Fund was not able to reach gender balance (four women and eight men were paid).

40. *Payment of the award* – The Trust Fund channelled cash to its field staff who ensured that the money was loaded on their mobile banking application (██████████). Administratively, the Trust Fund made sure that only the amounts of the awards are reported as a direct cost (that is amounts taken from the 2.7 million euros of liability pronounced against Mr Al Mahdi), while the costs associated with the transfers are reported as indirect costs. At the end of each notification conversation with the beneficiaries, they were asked to confirm once more his or her phone number and the money was transferred into that phone, together with the supplementary amount necessary to withdraw the money.⁴⁷ Upon receipt of the money, the beneficiary was requested to fill out and sign on paper an acknowledgement of receipt and send back a picture to the Trust Fund.

41. Overall, the Trust Fund tested this notification and payment strategy on this group of 12 beneficiaries,⁴⁸ which permitted to establish that it is workable and satisfactory, with the downside that it requires a substantive amount of time for Trust Fund staff to proceed to the notification and the payment.

42. *Payment through a (telephone) banking institution:* As to the payment of the award, the Trust Fund had secured the services of ██████████ a banking institution capable of effectuating bank transfers via mobile phone to individuals notified anywhere in the Sahel region. As reported in the Eighteenth Update Report, the Trust Fund and ██████████ were ready to sign a contract so that payments could start taking place in early 2021, as announced to the victims' community. Just before the Trust Fund proceeded to prepare the electronic signature of the contract, on 8 February 2021, the Trust Fund received unofficial information indicating that ██████████ was in default of payment towards a number of its partners and apparently close to bankruptcy. Accordingly, the Trust Fund cross-checked the information received. Multiple contacts with Trust Fund's sources throughout Mali and the Sahel region (notably Côte d'Ivoire and Senegal) confirmed that, while WARI was still accepting cash deposits, it was not disbursing the money channelled through them any longer. Open-source research confirmed this information⁴⁹ and

⁴⁷ By way of example, a direct descendant is entitled to ██████████ francs. However, withdrawing such a sum upon receiving it on one's cell phone costs ██████████ francs of withdrawal costs that are being incurred by the Trust Fund and **not** taken from the 2.7 million euros.

⁴⁸ The Trust Fund will provide a comprehensive list of the beneficiaries who received payment of their reparations awards as an annex to its twentieth update report due in May 2021.

⁴⁹ See *inter alia* ██████████

privileged contacts as well. In particular, bank employees in Mali, partners from two [REDACTED] [REDACTED] in Mali, indicated facing serious issues with [REDACTED] (notably [REDACTED] is not disbursing the funds received by organisations to beneficiaries).

43. Accordingly, the Trust Fund, having consulted the Registry Legal Office, decided to not proceed to signing the contract and to immediately seek alternative solutions. By way of background, the legal framework associated with procuring services, notably the Financial Rules and Regulations, are such that the procurement and contracting process with another banking institution to proceed to the payment would last at the very least half a year. Not proceeding to the payments to victims before that would inevitably cause frustrations within the community which would be such that it could risk undermining the entire reparations process and more generally, defeating the purpose of reparations.

44. As a result, the Trust Fund developed a three-pronged strategy aimed at addressing the urgent need of payment. First, as a longer term solution, the Trust Fund will proceed to run a new open tender with a view of securing the services of a telephone banking institution in the region. Such an open tender cannot be expected to result in the signature of a contract before the end of 2021. Second, pending the outcome of this process, the Trust Fund will proceed to sole source a telephone banking institution – a procedure that permits shortening slightly the time required but which will still last a number of months. Third, to ensure that commitments to the beneficiaries are respected and that the reparations process progresses, the Trust Fund has developed an emergency mechanism to proceed with the payments.

45. With the agreement of the LRV and based on its experience with the pilot group, the Trust Fund designed a mitigating strategy consisting [REDACTED]

46. [REDACTED]

47. [REDACTED]

[REDACTED]

48. [REDACTED]

49. [REDACTED]

[REDACTED]

[REDACTED]

50. The Trust Fund concluded, [REDACTED] [REDACTED] prove a satisfactory way forward and will permit continuing the notification and disbursement of the reparations awards.

51. *Monitoring and evaluation of individual awards* – As per its standard practice, the Trust Fund will monitor the evolution of the project (that is the payment of the individual reparations) and the satisfaction of the victims. To this effect, a questionnaire for the victims was prepared following best evaluation practices and will be administered to the victims by a team of independent evaluators on a large sample of victims. The questionnaire is mostly aimed at determining whether the victims were satisfied with the process of consultation, collection of applications, notification, payments and whether it provided them with some sort of relief or closure.

52. In addition, [REDACTED] [REDACTED] [REDACTED].

C. Collective reparations

53. The Trust Fund worked with the RLO to finalise the contract to be signed by UNESCO. [REDACTED] [REDACTED] [REDACTED].

54. While the ultimate arrangements are made in the grant management system in order to disburse the first instalments to the other two implementing partners, the Trust Fund worked with the implementing partners throughout the reporting period and in particular in the context of a workshop organised in Bamako at the end of February 2021.

55. The workshop aimed at integrating each project into a common programme and determine a roadmap/action points with the implementing partners (UNESCO for the reparations to damages to the Protected Buildings, CIDEAL/[REDACTED] for the

reparations for the consequential economic harm, [REDACTED] for the reparations for the moral harm). Such approach is deemed necessary considering that the measures complement each other and the importance of streamlining the interaction with the communities: this is particularly important in light of the forms of harm to be responded to and in light of the moderate size of the town of Timbuktu, and the limited number of individuals available for consultations (notably, local officials and traditional authorities, family representatives, religious authorities etc.).

56. Accordingly, the Trust Fund supervised a number of working sessions during which the detailed mechanics of the integration of each and every measure into one single reparations programme was discussed. Joint materials such as communication leaflets were designed and a methodology of joint action agreed upon. This will permit avoiding confusion in the interaction with the victims' communities.

57. The implementing partners will jointly engage with the communities in April and May if the security situation allows.

D. Symbolic ceremony

58. As previously reported, the Malian authorities had committed to move forward with the preparation of the symbolic reparation ceremony so that it can take place prior to the start of the Ramadan and to the legislative elections. As a result, on [REDACTED], the Trust Fund participated at an inter-ministerial meeting during which a date was proposed (30 March 2021, yet to be confirmed) and at which relevant security aspects, protocol, unfolding of the ceremony and scenography were discussed.

59. The Malian authorities indicated that it is expected that the President of the transition hosts the ceremony, with the participation of the government. In addition to the expected attendance of Court's and Trust Fund's officials, the Director-General of UNESCO as well as members of diplomatic missions in Mali, the LRV, five individuals selected among the victims' community to represent them, and local authorities of Timbuktu are expected to participate.

60. Following this meeting, the Trust Fund proceeded to take organisational steps such as [REDACTED]

[REDACTED]

61. On ■ February 2021, the Trust Fund participated at a second inter-ministerial meeting to further organise the ceremony. ■
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62. Following this multilateral meeting, the Trust Fund had a number of bilateral meetings with ■
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63. To ensure that the symbolism of this reparation award reaches its audience and works as a reparation measure, providing symbolically redress to the Malian population and the international community, the Trust Fund is organising a series of side events surrounding the ceremony, such as a conference for scholars and researchers on cultural property and victims' rights. The Trust Fund contemplates the opportunity to collaborate with organisations to set up a series of debates on the value of cultural heritage and its importance throughout the country.

64. The Trust Fund is developing a communication strategy and a series of measures to increase the visibility and meaningfulness of the ceremony and ensure that it has real symbolic and commemorative value for the population throughout Mali. In addition, the Trust Fund works at ensuring an important coverage by the international and local media to ensure that its message is spread out.

65. The ceremony is organised in cooperation with the Country Office, which is associated with the Trust Fund's efforts and regularly kept informed of any progress made.

E. Other matters: Reporting and grants management

66. *Reporting and grants management* – As reported in the Eighteenth Update Report,⁵⁰ the Trust Fund has been updating its grants management system to ensure full

⁵⁰ See Eighteenth Update Report (ICC-01/12-01/15-377-Conf), para. 62, fn 46.

compliance with its reporting and financial obligations towards donors and proper monitoring of the implementing partners. Further tests have been conducted during the reporting period, including upon the payment of the first individual reparations awards and it is expected that the structure will be finalised shortly.

67. *Assistance mandate* – As reported in the Eighteenth Update Report,⁵¹ the Trust Fund is continuing its efforts to put in place a programme under its assistance mandate. Following the publication of a call for expression of interest in November 2020, a number of organisations applied. In January 2021, a committee was set up and reviewed the applications received to select eligible organisations. A request for proposal is currently being drafted. The Trust Fund will report on relevant developments in due course.

CONCLUSION

68. 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 1 March 2021

At The Hague, The Netherlands

⁵¹ See Eighteenth Update Report (ICC-01/12-01/15-377-Conf), paras 65 – 68.