

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 15 June 2016

Date of submission: 16 December 2016

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

**Public redacted version of "Prosecution request for an extension of time to conduct the review of the case record to be made available to the Legal Representative of the Victims",
15 June 2016, ICC-01/12-01/15-104-Conf**

Source: Office of the Prosecutor

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

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Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

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Other

Introduction

1. On 8 June 2016, Trial Chamber VIII (the “Chamber”) ordered the Parties and the Registry to review their confidential filings already in the record of the case and identify those for which there are specific reasons why they cannot be notified to the Legal Representative of Victims (“LRV”). The Chamber further ordered the Parties to review the evidence thus far communicated to the Chamber. The Chamber specified that this review must be conducted within 10 days.¹
2. Pursuant to regulation 35 of the Regulations of the Court, the Prosecution requests an extension of time, until 24 June 2016, to conduct the said review.
3. This extension of time is requested due to the voluminous amount of evidence and filings which require a careful review in order *inter alia* to preserve the security of witnesses and third parties and to protect the investigative capacity of the Prosecution, while ensuring that the LRV is able to have a meaningful participation and present his views.

Confidentiality

4. The present request is filed confidentially pursuant to regulation 23*bis* of the Regulations of the Court, because it discusses potential security risks to

¹ ICC-01/12-01/15-97-Red, para. 43.

witnesses and third parties as well as risks to the Prosecution's ability to continue investigating the situation in Mali.

Submissions

5. Pursuant to the Trial Chamber's order of 8 June 2016 (the "Order"), the Prosecution must review all its confidential filings already in the record of the case, *i.e.* 73 filings in total, representing 373 records when these filings are taken together with their annexes,² with the view to identifying those for which there are specific reasons why they cannot be notified to the LRV.³
6. Further, pursuant to the same Order, the Prosecution also must review the evidence that it has thus far communicated to the Chamber and identify any objections to the evidence being notified to the LRV.⁴ To date, the Prosecution has disclosed 10,743 items pursuant to rule 77, 1,831 items of an incriminatory nature and eight of a potentially exculpatory nature. In total, this amounts to reviewing a total of 12,582 items.⁵

² The number 73 includes confidential filings, confidential *ex parte* filings and confidential redacted filings but does not include the total number of annexes to these filings. The number 373 represents the filings together with their annexes.

³ ICC-01/12-01/15-97-Red, para.43.

⁴ ICC-01/12-01/15-97-Red, para.43. The Prosecution notes that in this case, pursuant to the instructions of the Pre-Trial Chamber, *all* disclosure communicated by the Prosecution to the Defence has also been communicated to the Chamber *via* eCourt, including INCRIM, PEXO, and Rule 77 material.

⁵ To which we need to add the documents disclosed on June 10 2016.

7. [REDACTED]⁶ [REDACTED]
[REDACTED] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] The Prosecution has no reason to doubt that the LRV will endeavour to handle confidential information appropriately. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] [REDACTED]
[REDACTED]
[REDACTED]⁸ [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

8. Under these circumstances, and in light of the Prosecution’s obligations under articles 68 and 54(1)(a) of the Statute and rule 81 of the Rules of Procedure and Evidence, the Prosecution considers that it must carefully review all evidence thus far communicated to the Chamber to distinguish items to which the LRV

⁶ [REDACTED]
⁷ [REDACTED]
⁸ [REDACTED]

should or should not be given access. This review will consider particular items of evidence that are of relevance to the LRV, bearing in mind the context of an announced guilty plea and the list of Prosecution witnesses to be called.

9. In light of the above, it is submitted that it is in the interest of justice to ensure that the Prosecution has sufficient time to conduct this review. The Prosecution submits that the volume of the record, together with its sensitive content, justifies an extension of the time limit.
10. Further, the Prosecution submits that the proposed extension of time, amounting to one extra week, will not affect the trial preparations of the Parties or the Trial Chamber, all of whom already have access to the materials in question. One extra week also should not unduly impact the preparation of the LRV, who will receive all appropriate material well in advance of the commencement of trial on 22 August 2016.
11. In light of the foregoing, the Prosecution submits that an extension of time, until 24 June 2016, strikes the best balance between giving appropriate access to the LRV to relevant materials, on the one hand, and the need to protect the security of witnesses and third parties, as well as the Prosecution's investigative capacity, on the other.

Relief requested

12. For the reasons stated above, the Prosecution requests an extension of time, until 24 June 2016, to conduct its review of filings and communicated evidence.



Fatou Bensouda, Prosecutor

Dated this 15th day of June 2016
At The Hague, The Netherlands