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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 Confidential Annex I and Confidential *EX PARTE* Annex II, only available
to the Legal Representative of Victims**

First Registry Report on Applications for Individual Reparations

Source: Registry

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

to:

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Mr Philipp Ambach

Trust Fund for Victims

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I. Introduction

1. Pursuant to the instruction of Trial Chamber VIII (“Chamber”) to begin forthwith the review of applications already in the record of the case of *The Prosecutor v. Ahmad Al Faqi Al Mahdi* (“Case”) in accordance with the procedures set out in the Decision on Trust Fund For Victims’ Draft Implementation Plan (“Decision on the DIP”)¹, the Victims Participation and Reparations Section (“VPRS”) submits its first report on applications for individual reparations.

II. Procedural History

2. On 17 August 2017, the Chamber issued its Reparations Order in the Case (“Reparations Order”), instructing the Trust Fund for Victims (“TFV”) to submit a draft implementation plan for reparations by 16 February 2018.²
3. On 8 March 2018, the Appeals Chamber rendered its judgement on the Legal Representative of Victims’ (“LRV”) appeal of the Reparations Order.³
4. On 20 April 2018,⁴ the TFV submitted the confidential version of the Draft Implementation Plan (“DIP”).⁵
5. On 18, 23 and 30 May 2018, the VPRS,⁶ the Defence of Mr Al-Mahdi,⁷ and the LRV,⁸ respectively, submitted observations on the DIP.

¹ Trial Chamber VIII, “Decision on Trust Fund for Victims’ Draft Implementation Plan for Reparations”, dated 12 July 2018 and registered on 13 July 2018, ICC-01/12-01/15-273-Conf, para. 31. A public redacted version was filed on the same date: ICC-01/12-01/15-273-Red (“Decision on the DIP”).

² Trial Chamber VIII, “Reparations Order”, 17 August 2017, ICC-01/12-01/15-236.

³ Appeals Chamber, “Public redacted Judgment on the appeal of the victims against the “Reparations Order”, 8 March 2018, ICC-01/12-01/15-259-Red2.

⁴ On 12 February 2018 and 5 April 2018, respectively, the Chamber granted extensions of time to the TFV for the latter to submit its DIP. *See* Trial Chamber VIII, “Decision on Trust Fund for Victims’ Request for Extension of Time”, 12 February 2018, ICC-01/12-01/15-257-Red, and “Public redacted version of ‘Decision on Second Trust Fund for Victims’ Request for Extension of Time’”, 5 April 2018, ICC-01/12-01/15-261-Red.

⁵ On 30 April 2018, the TFV submitted a corrected version of the DIP. *See* TFV, “Corrected version of Draft Implementation Plan for Reparations, With confidential Annex I, 20 April 2018, ICC-01/12-01/15-265-Conf”, 30 April 2018, ICC-01/12-01/15-265-Conf-Corr. A public redacted version of the DIP was filed on 18 May 2018: ICC-01/12-01/15-265-Corr-Red (“DIP”).

6. On 12 July 2018, the Chamber issued its Decision on the DIP by which it, *inter alia*:

- approved the DIP subject to amendments and further directions to the TFV;⁹
- approved with amendments the screening process for the implementation of individual reparations;¹⁰
- ordered the TFV to produce a new application form for reparations, in consultation with all relevant stakeholders, and to submit it for the Chamber's approval as soon as possible, and no later than 2 November 2018;¹¹
- held that applicants whose applications are already on the record of the case are not required to fill in a new application form, but that they should "merely provide any missing information, as requested by the VPRS and with the assistance of the LRV." Similarly, the Chamber held that "applications received before the approval of the new form by the Chamber will be processed as such";
- ordered the VPRS to begin the review "forthwith" and in accordance with the procedures set out in the Decision on the DIP.¹²

III. Classification

⁶ Registry, "Observations on the Trust Fund for Victims' Draft Implementation Plan for Reparations", dated 18 May 2018 and registered on 21 May 2018, ICC-01/12-01/15-267-Conf. A public redacted version was filed on 27 July 2018: ICC-01/12-01/15-267-Red ("Registry Observations").

⁷ Defence, "Defence Observations on the Draft Implementation Plan for Reparations ICC-01/12-01/15-265-Conf + Conf-AnxI Submitted by the Trust Fund for Victims", 23 May 2018, ICC-01/12-01/15-268-Conf-tENG.

⁸ LRV, "Observations of the Legal Representative of Victims on the Draft Reparations Plan submitted by the Trust Fund for Victims in compliance with the Reparations Order pursuant to Article 75 of the Statute (ICC-01/12-01/15-236)", 30 May 2018, ICC-01/12-01/15-271-Conf-tENG.

⁹ Decision on the DIP, page 41.

¹⁰ *Ibid.*, and paras. 32-49 and 60-67.

¹¹ *Id.*, para. 30 and page 41.

¹² *Id.*, para. 31.

7. Pursuant to regulation 23 *bis*(1) of the Regulations of the Court (“RoC”), Annex I to the present filing is classified as confidential since it contains detailed information about potential beneficiaries of individual reparations which is not available to the public. Annex II is classified as confidential *ex parte* only available to the Legal Representative of Victims because it contains confidential information that may lead to the identification of victims who applied for reparations.

IV. Applicable Law

8. The Registry submits the present filing in accordance with articles 68(1) and 75 of the Rome Statute, rules 85, 94 and 98 of the Rules of Procedure and Evidence, regulation 88 of the RoC and regulations 110 and 118(2) of the Regulations of the Registry.

V. Submissions

a. Applications referred to in paragraph 31 of the Decision on the DIP

9. It is VPRS’s understanding that paragraph 31 of the Decision on the DIP is applicable to:

- 139 application forms for reparations already on the record of the case;¹³
- 240 application forms for reparations received by the VPRS after the deadline for transmission of reparations forms¹⁴ to the Chamber and thus not transmitted in the record of the Case.

10. In accordance with the Chamber’s order in the Decision on the DIP¹⁵, the VPRS started the review of the 139 applications on the record of the case (“Review Exercise”) without delay, with a view to identifying any and all complete

¹³ Trial Chamber VIII, “Reparations Order”, 17 August 2017, ICC-01/12-01/15-236, para. 5.

¹⁴ Trial Chamber VIII, “Reparations Phase Calendar”, 29 September 2016, ICC-01/12-01/15-172, para. 2 (iv).

¹⁵ Decision on the DIP, para. 31.

applications for which it might already issue positive or negative preliminary assessments, as per paragraphs 40 and 41 of the Decision on the DIP.

11. The VPRS conducted the Review Exercise in accordance with the screening criteria established in the Decision on the DIP. A summary of the criteria applied by the VPRS is submitted as confidential Annex I to the present filing.
12. To date, the VPRS reviewed 65 application forms and it concluded that none of them contain all the information necessary for the VPRS to issue either a positive or a negative preliminary assessment.
13. The VPRS respectfully submits that, in its understanding, paragraph 42 of the Decision on the DIP, which sets out the procedure and the relevant deadlines for unclear VPRS Preliminary Assessments, does not apply to the applications covered by paragraph 31 of the said decision. Therefore, the VPRS compiled a table containing all missing information or clarification needed for each of the 65 applications reviewed to date (“VPRS table”) which was shared with the LRV for follow-up.¹⁶ This table is also transmitted, for the Chamber’s information, as confidential *ex parte* Annex II to the present document, only available to the LRV.

b. New application form for individual reparations

14. The VPRS and the TFV started conversations on the new reparations form to be used in the Case on 1 June 2018.¹⁷ However the draft form could not be finalized prior to the Decision on the DIP as the Chamber’s guidance had been requested by both the TFV¹⁸ and the VPRS¹⁹ on various aspects.
15. After the Decision on the DIP was issued, the TFV and VPRS resumed their meetings and are presently working in close collaboration on the draft form, which is to be submitted by the TFV to the Chamber after consultations with all other relevant stakeholders.

¹⁶ Email from VPRS to LRV on 10 August 2018 at 10.10 a.m.

¹⁷ Meeting between TFV and VPRS on 1 June 2018 at 9.30 a.m.

¹⁸ DIP, paras. 90-155.

¹⁹ Registry Observations, para. 9.

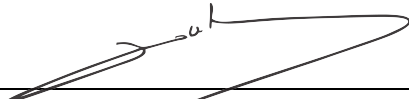
16. The VPRS will continue to put at the TFV's disposal its substantive and technical expertise on this matter.

c. Further VPRS filings

17. The VPRS will continue the Review Exercise for the remaining 74 applications on the record of the case, followed by the review of the other 240 applications mentioned in paragraph 9 above.

18. The VPRS will make filings every 30 days with a view to keeping the Chamber informed of its progress, unless the Chamber prefers a different reporting interval.

19. The VPRS respectfully informs the Chamber that it will start implementing the screening process established in the Decision on the DIP²⁰ within the deadlines imposed by the Chamber as soon as it starts receiving the missing and/or unclear information identified and requested from the LRV in the Review Exercise, or new forms for reparations.



Marc Dubuisson, Director of the Division of Judicial Services

On behalf of

Peter Lewis, Registrar

Dated this 10 August 2018

At The Hague, The Netherlands

²⁰ Decision on the DIP, paras. 36-44.