

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

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

Date: **27 October 2022**

**TRIAL CHAMBER VIII**

**Before:** Judge Antoine Kesia-Mbe Mindua, Presiding Judge  
Judge Bertram Schmitt  
Judge María del Socorro Flores Liera

**SITUATION IN THE REPUBLIC OF MALI**

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

**Confidential**

**Third Decision on the LRV's Request for an extension of the time limit**

**To be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:****Legal Representative of Victims**  
Mr Mayombo Kassongo**Counsel for the Defence**  
Mr Mohamed Aouini**The Office of the Prosecutor****Legal Representatives of Applicants****Unrepresented Victims****Unrepresented Applicants for  
Participation/Reparation****The Office of Public Counsel for  
Victims****The Office of Public Counsel for the Defence****States Representatives****Trust Fund for Victims**  
Mr Pieter de Baan**REGISTRY**

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**Registrar**  
Mr Peter Lewis**Counsel Support Section****Victims and Witnesses Unit****Detention Section****Victims Participation and Reparations  
Section**  
Mr Philipp Ambach**Others**

**Trial Chamber VIII** of the International Criminal Court, in the case of *The Prosecutor v. Ahmad Al Faqi Al Mahdi* (the ‘*Al Mahdi case*’), having regard to regulations 24(5) and 35 of the Regulations of the Court (‘Regulations’), issues this Third Decision on the LRV’s Request for an extension of the time limit (the ‘Decision’).

## I. PROCEDURAL HISTORY

1. On 14 April 2022, the Chamber issued a Decision on an LRV’s urgent request for an extension of the time limit, *inter alia*: i) extending the deadline for the Legal Representative of Victims (‘LRV’) to conclude the collection of applications for individual reparations in Niger and Burkina Faso, until 15 August 2022; and ii) directing the Trust Fund for Victims (‘TFV’) to complete the implementation of individual awards by 14 November 2022, at the latest.<sup>1</sup>
2. On 18 August 2022, the Chamber issued another Decision on the LRV’s Request for an extension of the time limit, extending the deadline for the LRV to conclude the consolidation of applications by 15 October 2022, and for the TFV to complete the implementation of individual awards by 14 January 2023.<sup>2</sup>
3. On 12 October 2022, the LRV submitted a request, asking the Chamber for a two-month further extension of the deadline to conclude the consolidation of applications for individual reparations (‘Request’).<sup>3</sup> Following the Chamber’s instructions,<sup>4</sup> on 17 October 2022, the TFV submitted its response to the Request (‘TFV Response’).<sup>5</sup> The Defence did not submit any response.
4. On 18 October 2022, the LRV filed *proprio motu* a memorandum in reply to the TFV’s response (‘Memorandum’).<sup>6</sup>

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<sup>1</sup> Decision on the LRV’s Urgent Request for an extension of the time limit pursuant to ‘Decision on the TFV’s Twenty-third update report on the updated implementation plan (ICC-01/12-01/15-439-Conf)’, (‘14 April 2022 Decision’) 14 April 2022, ICC-01/12-01/15-443-Conf.

<sup>2</sup> Decision on the LRV’s Request for an extension of the time limit (‘18 August 2022 Decision’), 18 August 2022, ICC-01/12-01/15-454-Conf.

<sup>3</sup> Requête en extension du délai accordé pour terminer les activités de consolidation de dossiers en cours de réparation individuelle (‘Request’), 12 October 2022, ICC-01/12-01/15-456-Conf.

<sup>4</sup> E-mail from the Chamber’s Legal Officer, 14 October 2022, 14:53.

<sup>5</sup> Trust Fund for Victims’ response to the Legal Representative for Victims’ third request for extension of time (ICC-01/12-01/15-456-Conf) (‘TFV Response’), 17 October 2022, ICC-01/12-01/15-457-Conf.

<sup>6</sup> Mémoire d’appui en réponse « Trust Fund for Victims’ response to the Legal Representative for Victims’ third request for extension of time” en date du 17 octobre 2022 - ICC-01/12-01/15-457 (‘Memorandum’), 18 October 2022, ICC-01/12-01/15-458-Conf.

## II. SUBMISSIONS AND ANALYSIS

5. In its Request, the LRV submits that, respectful of the Chamber's deadline, he has made every effort to finalise the consolidation of the remaining applications. However, the LRV indicates that there are over 100 applications that are yet to be consolidated, including: i) over 52 new applications recently transmitted, collected either by the LRV in his recent missions in the countries that were previously not accessible or by the TFV during its recent mission to Bamako to launch the economic resilience facility;<sup>7</sup> ii) 43 applications, whose consolidation was hampered by several challenges, including difficulties in reaching the victims due to change of or dispersive coordinates, the need to obtain certain authorizations, misunderstandings on the part of some victims, the need to deploy additional resources for the victims who live in remote areas, administrative and internal challenges in securing contact with the victims in other countries, and the need to adapt to certain requirements requested by the TFV;<sup>8</sup> and iii) 54 applications whose status requires verification as it concerns victims who have already submitted applications but are yet to be informed regarding their eligibility.<sup>9</sup>

6. The LRV further indicates that while he understands the need to finalise the process of implementing individual reparations, it is nonetheless necessary that all victims who have submitted applications for reparations are not excluded from the process.<sup>10</sup> The LRV also indicates that in order to finalise the consolidation of applications i) it has mobilised his network in Timbuktu and Bamako to carry out the remainder of required tasks; and ii) it reached out to the TFV to strengthen their collaboration, and decided to establish a common list of applications that still require consolidation and to divide the tasks that are similarly required to complete the consolidation.<sup>11</sup> In light of the above, the LRV requests a two-month extension of the deadline, to enable him to finalise the consolidation of the applications for individual reparations.<sup>12</sup>

7. In its Response, the TFV supports the LRV's Request<sup>13</sup> and submits additional clarification to the information provided by the LRV:<sup>14</sup>

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<sup>7</sup> Request, ICC-01/12-01/15-456-Conf, para. 6(1).

<sup>8</sup> Request, ICC-01/12-01/15-456-Conf, para. 6(2).

<sup>9</sup> Request, ICC-01/12-01/15-456-Conf, p. 6.

<sup>10</sup> Request, ICC-01/12-01/15-456-Conf, para. 7.

<sup>11</sup> Request, ICC-01/12-01/15-456-Conf, para. 9.

<sup>12</sup> Request, ICC-01/12-01/15-456-Conf, paras 10-11.

<sup>13</sup> TFV Response, ICC-01/12-01/15-457-Conf, para. 22.

<sup>14</sup> TFV Response, ICC-01/12-01/15-457-Conf, paras 12-21.

- a) Regarding the applications recently transmitted by the TFV requiring consolidation, the TFV submits that in the context of its mission to Timbuktu to launch the collective reparations, between 4 and 7 July 2022, the TFV held a symbolic ceremony on the site of one of the affected mausoleums to acknowledge the suffering endured by the families, masons and guardians, and their role in the reconstruction of the buildings and in the continuation of the traditions.<sup>15</sup> As a result, and in the weeks that followed the ceremony, the TFV received and transmitted to the LRV 52 additional applications, bringing the total number of new applications transmitted to the LRV by the TFV around and after the July ceremony to 97 applications.<sup>16</sup> The TFV acknowledges that these applications are additional to those the LRV himself collected during his recent missions.<sup>17</sup>
- b) Regarding incomplete applications for which the TFV sent requests for consolidation between February 2021 and October 2022, the TFV informs that on 10 October 2022, it transmitted to the LRV the updated list of 43 applications awaiting consolidation, with each request indicating specifically the piece of documentation and/or kind of information that the TFV requires to decide on eligibility.<sup>18</sup>
- c) Regarding the applications whose status still requires verification, the TFV informs that they either refer to the aforementioned 43 applications, or to applicants whose application has not been transmitted to the TFV yet, as it is either in the possession of the LRV, or in course of transmission to the TFV by the VPRS.<sup>19</sup> The TFV submits that the verification of the status of the relevant applications could be carried out by the LRV in coordination with the TFV.<sup>20</sup>
- d) The TFV informs that after 3 October 2022, it received a list of 71 individuals who never submitted applications for reparations because they either did not have access to the process or had no trust in it, but that they still wish to submit an application.<sup>21</sup>
8. As a matter of principle, the TFV reiterates its belief that it is necessary to ensure that victims whose applications have been collected are in a position to submit complete

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<sup>15</sup> TFV Response, ICC-01/12-01/15-457-Conf, para. 12.

<sup>16</sup> TFV Response, ICC-01/12-01/15-457-Conf, para. 13.

<sup>17</sup> TFV Response, ICC-01/12-01/15-457-Conf, para. 14.

<sup>18</sup> TFV Response, ICC-01/12-01/15-457-Conf, paras 15-16.

<sup>19</sup> TFV Response, ICC-01/12-01/15-457-Conf, para. 17.

<sup>20</sup> TFV Response, ICC-01/12-01/15-457-Conf, para. 18.

<sup>21</sup> TFV Response, ICC-01/12-01/15-457-Conf, para. 20.

applications and to receive a decision on their eligibility to benefit from individual reparations.<sup>22</sup> In addition, it informs that the satisfaction of the descendants of the Saints is a key element in the transition from the implementation of the individual reparations to the implementation of the collective reparations programme.<sup>23</sup>

9. Finally, the TFV submits that in order to speed up the conclusion of the process, and to make it as efficient as possible, it commits to provide full support to the LRV by consolidating itself the outstanding and potentially any additional applications, before transmitting them to the LRV to send them to the VPRS.<sup>24</sup> In addition, the TFV requests the Chamber to also grant an extension of the deadline for the TFV to issue its administrative decision on eligibility and to proceed to the payment of reparations awards, which in light of the administrative screening procedure, should be no sooner than 15 March 2023.<sup>25</sup>

10. As to the Memorandum submitted by the LRV, the Chamber recalls that, according to Regulation 24(5) of the Regulations and in line with the Court's jurisprudence,<sup>26</sup> a chamber must be seized to grant leave to reply to a response. In the present case, the LRV submitted its Memorandum in reply to the TFV Response *proprio motu*, without first seizing the Chamber to grant leave to reply, defeating the purpose of the provision. Consequently, the Chamber will not consider the memorandum in reaching its decision.

11. The Chamber notes that, pursuant to regulation 35(2) of the Regulations, it may extend or reduce a time limit if good cause is shown, and, where appropriate, after having given the participants an opportunity to be heard. In the past, this and other chambers of the Court have considered, *inter alia*, that factors such as circumstances beyond one's control or difficulties in accessing victims are good causes to extend a time limit.<sup>27</sup>

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<sup>22</sup> TFV Response, ICC-01/12-01/15-457-Conf, para. 19.

<sup>23</sup> TFV Response, ICC-01/12-01/15-457-Conf, para. 21.

<sup>24</sup> TFV Response, ICC-01/12-01/15-457-Conf, para. 23.

<sup>25</sup> TFV Response, ICC-01/12-01/15-457-Conf, para. 24.

<sup>26</sup> See, for instance, Appeals Chamber, *Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, Reasons for the "Decision on the 'Request for the recognition of the right of victims authorized to participate in the case to automatically participate in any interlocutory appeal arising from the case and, in the alternative, application to participate, 31 July 2015, [ICC-02/11-01/15-172](#), para. 20; Trial Chamber IV, *Prosecutor v. Abdallah Banda Abakaer Nourain*, 6 March 2012, [ICC-02/05-03/09-304](#), para. 6.

<sup>27</sup> See, for instance, Decision on the LRV Request for Extension of Time to Submit Individual Reparations Applications, ICC-01/12-01/15-359-Conf, para. 14; Trial Chamber IX, *Prosecutor v. Dominic Ongwen*, Decision on requests for extension of time, 19 July 2021, [ICC-02/04-01/15-1865](#), para. 10; Pre-Trial Chamber III, Situation in the People's Republic of Bangladesh/Republic of the Union of Myanmar, Decision on the Registry's Request for Extension of Notice Period and Submissions on the Article 15(3) Process, 28 June 2019, [ICC-01/19-6](#), para. 14.

12. The Chamber welcomes the LRV's submission that, in view of the deadline set by the Chamber, he is deploying his best efforts to finalise the consolidation of all applications for individual reparations.<sup>28</sup> In addition, the Chamber notes that the LRV indicates that he is carrying out concrete actions to ensure that the remainder of applications are consolidated as soon as possible, which include, *inter alia*: i) meeting with the TFV to strengthen their cooperation; and ii) mobilisation of his local network to carry out the remainder of required tasks.<sup>29</sup>

13. In addition, the Chamber notes the LRV's and the TFV's submission that all victims who have submitted applications for reparations should have the possibility to complete their application and benefit from individual reparations.<sup>30</sup> The Chamber also acknowledges the TFV's submission that the satisfaction of the descendants of the Saints, who, according to the Reparations Order, are the beneficiaries of individual reparations,<sup>31</sup> is a key element in the transition from the implementation of the individual reparations to the implementation of the collective reparations programme.<sup>32</sup>

14. In these circumstances, the Chamber finds that 'good cause' to extend the time limits has been shown. Accordingly, the Chamber extends the time limit by two months, i.e., to 15 December 2022, allowing the LRV to finalise the consolidation of all applications for individual reparations.

15. However, considering that this is already the third LRV request for the extension of time<sup>33</sup> and that some of the applications yet to consolidated date back to February 2021,<sup>34</sup> the Chamber underlines that this will be the very last extension it grants for these reasons and instructs the LRV to make sure it deploys all the available means to finalise the consolidation of applications, including seriously considering the TFV's offer to directly consolidate them.<sup>35</sup>

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<sup>28</sup> Request, ICC-01/12-01/15-456-Conf, para. 5.

<sup>29</sup> Request, ICC-01/12-01/15-456-Conf, para. 9.

<sup>30</sup> Request, ICC-01/12-01/15-456-Conf, para. 7; TFV Response, ICC-01/12-01/15-457-Conf, para. 19.

<sup>31</sup> Reparations Order, 17 August 2017, [ICC-01/12-01/15-236](#), para. 145.

<sup>32</sup> TFV Response, ICC-01/12-01/15-457-Conf, para. 21.

<sup>33</sup> See Corrigendum de "Demande urgente d'extension de délai suivant 'Decision on the TFV's Twenty-third update report on the updated implementation plan ( ICC-01/12- 01/15-439-Conf)', ICC-01/12-01/15-440-Conf" du 7 avril 2022, 8 April 2022, ICC-01/12-01/15-440-Conf-Corr, para. 33; Demande de prorogation de délai suivant « Decision on the LRV's Urgent Request for an extension of the time limit pursuant to 'Decision on the TFV's Twenty-third update report on the updated implementation plan' ICC-01/12-01/15-443", 8 August 2022, ICC-01/12-01/15-452-Conf, para. 32.

<sup>34</sup> See TFV Response, ICC-01/12-01/15-457-Conf, paras 15-16.

<sup>35</sup> TFV Response, ICC-01/12-01/15-457-Conf, para. 23.

In light of the extension granted above, the Chamber also extends the deadline for the TFV to complete the implementation of individual reparations until 14 March 2023.

**FOR THE FOREGOING REASONS, THE CHAMBER HEREBY,**

**GRANTS** the Request;

**EXTENDS**, for the last time, the deadline for the LRV to conclude the consolidation of all applications for individual reparations in his possession, until 15 December 2022, at the latest; and

**DIRECTS** the TFV to complete the implementation of individual awards by 14 March 2023, at the latest.

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



**Judge Antoine Kesia-Mbe Mindua**  
**Presiding Judge**



**Judge Bertram Schmitt**



**Judge María del Socorro Flores Liera**

Dated this Thursday, 27 October 2022

At The Hague, The Netherlands