

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

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

Date: **21 September 2015**

Date of redacted version: **30 September 2015**

PRE-TRIAL CHAMBER I

Before: Judge Cuno Tarfusser, Single Judge

**SITUATION IN THE REPUBLIC OF MALI
IN THE CASE *THE PROSECUTOR v AHMAD AL FAQI AL MAHDI***

Public redacted version

**Order to the Prosecutor concerning classification of documents in support
of the warrant of arrest to be made available to the suspect upon surrender**

Decision to be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor

Fatou Bensouda

James Stewart

Counsel for Defence

Legal Representatives of Victims

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

Amicus Curiae

REGISTRY

Registrar

Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Others

I, **Judge Cuno Tarfusser**, having been designated¹ as Single Judge of Pre-Trial Chamber I (“Chamber”) of the International Criminal Court responsible for carrying out the functions of the Chamber with respect to the situation in the Republic of Mali, issue this order relating to the classification of documents in the record of the case.

1. On 7 September 2015, the *“Requête urgente du Bureau du Procureur en vue de la délivrance d’un mandat d’arrêt à l’encontre d’Ahmad Al Faqi Al Mahdi”*² (“Prosecutor’s Application” or “Application”) was filed.
2. On 9 September and 12 September 2015, [REDACTED]³ and the materials supporting the Application⁴ were respectively filed in the record.
3. On 18 September 2015, the Single Judge issued the *“Mandat d’arrêt à l’encontre d’Ahmad Al Faqi Al Mahdi”*.⁵

Single Judge’s determinations

4. The Single Judge notes that, pursuant to article 67(1) of the Statute, a suspect has a right to be informed “promptly and in detail of the nature, cause and content of the charge”. For this right to be meaningfully exercised it is necessary that, besides the arrest warrant itself, the Prosecutor’s Application and all the supporting material examined by the Single Judge to make his determination is made available to the suspect immediately upon his surrender, prior to and irrespective of the Prosecutor’s obligations for the purposes of disclosure under rule 121 of the Rules of Procedure and Evidence and subject only to the adoption of protective measures which might be necessary pursuant to rule 87 of the Rules.

¹ ICC-01/12-24-Conf.

² ICC-01/12-31-US-Exp.

³ ICC-01/12-32-US-Exp.

⁴ ICC-01/12-33-Secret-Exp.

⁵ ICC-01/12-01/15-1-Secret-Exp.

5. Accordingly, it is necessary that the Prosecutor, without undue delay, proceed to review all of the material annexed or referred to in the Application and filed in the record of the case as secret *ex parte* annexes to ICC-01/12-33-Secret-Exp, with a view to identifying (i) which material can be made available to the suspect without redactions upon his first appearance; (ii) which material, if any, requires redactions prior to being made available to the suspect, specifying the reasons underlying such redactions and providing an estimate of the time which would be required to implement them; (iii) which material, if any, cannot in her view be made available to the suspect at this stage, specifying the reasons supporting such view.

FOR THESE REASONS, THE SINGLE JUDGE

ORDERS the Prosecutor

(i) to review all of the material annexed or referred to in the Application and filed in the record of the case (secret *ex parte* annexes to ICC-01/12-33-Secret-Exp);

(ii) to prepare and file in the record of the case, as secret *ex parte*, as soon as feasible and no later than the first appearance:

1. a list of material which can be made available to the suspect without redactions;
2. a list of material, if any, requiring redactions prior to being made available to the suspect, specifying the reasons underlying such redactions and providing an estimate of the time which would be required to implement them;
3. a list of material, if any, which in her view cannot be made available to the suspect at this stage, specifying the reasons supporting such view.

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

_____ [signed] _____

Judge Cuno Tarfusser

Single Judge

Dated this Monday, 21 September 2015

At The Hague, The Netherlands