

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/12-01/15
Date: 9 December 2015

PRE-TRIAL CHAMBER I

Before: Judge Cuno Tarfusser, Single Judge

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

Public

Decision concerning the personal belongings of Ahmad Al Faqi Al Mahdi

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 the Defence

Mohamed Aouini

Legal Representatives of the Victims

Legal Representatives of the 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**

Other

Judge Cuno Tarfusser, Single Judge exercising the functions of the Chamber in the present case, noting article 57(3)(a) and (c) of the Statute, issues this decision concerning the personal belongings of Ahmad Al Faqi Al Mahdi.

1. In the warrant of arrest for Ahmad Al Faqi Al Mahdi issued on 18 September 2015 (ICC-01/12-01/15-1-Red), the Single Judge ordered, *inter alia*, that with a view to preserving any potential evidence, at the moment of his arrest, Ahmad Al Faqi Al Mahdi should be searched and any potentially relevant material in his possession seized.

2. On 1 October 2015, the Registry filed a report on the arrest and surrender of Ahmad Al Faqi Al Mahdi (ICC-01/12-01/15-24-Conf), in which it stated that Ahmad Al Faqi Al Mahdi's personal belongings were handed over to Registry representatives and remained in its custody, but that these belongings were neither seized nor transmitted by the authorities of Niger in the context of implementing the request for arrest and surrender.

3. Upon instruction of the Single Judge, the Registry on 27 November 2015 filed a report on the personal belongings of Ahmad Al Faqi Al Mahdi (ICC-01/12-01/15-50-Conf), which states that some of the belongings registered on admission of Ahmad Al Faqi Al Mahdi to the detention centre could be considered to fall within the category for which seizure was ordered in the warrant of arrest. These items are currently in the custody of the Registry and Ahmad Al Faqi Al Mahdi has requested that they be returned to him.

4. On 2 December 2015, the Prosecutor filed a "*Demande d'autorisation d'examiner des objets saisis lors de la fouille d'Ahmad Al Faqi Al Mahdi suite au Registry's Report on the personal belongings of Mr. Ahmed Al Faqi Al Mahdi (ICC-01/12-01/15-50-Conf)*" (ICC-01/12-01/15-52-Conf), in which she asks to be permitted to inspect the material which in her submission may be relevant in the context of fulfilling her obligations under article 54(1)(a) of the Statute.

5. On 8 December 2015, the Defence, in response, indicated that it does not oppose the Prosecutor's request (ICC-01/12-01/15-56-Conf).

6. The Single Judge takes note of the Registry's indication that the personal belongings of Ahmad Al Faqi Al Mahdi currently in custody of the Registry were not seized by the authorities of Niger in the context of the arrest and surrender proceedings. However, considering that the material is *de facto* in the Registry's custody, and in particular bearing in mind that the Defence does not object to the Prosecutor's request for inspection of the material, the Single Judge considers it unnecessary in the present circumstances to further examine the current legal status of the personal belongings. The Prosecutor's request to inspect the personal belongings of Ahmad Al Faqi Al Mahdi is granted, and the Registry is ordered to liaise with the Prosecutor in order to organise the details of such inspection.

7. With regard to the classification of the filings related to the matter at hand, the Single Judge considers that, with exception of the annexes listing the personal belongings of Ahmad Al Faqi Al Mahdi in question, no reasons justifying their continued classification as confidential exist. These filings shall thus be reclassified as public.

FOR THESE REASONS, THE SINGLE JUDGE

GRANTS the Prosecutor's request;

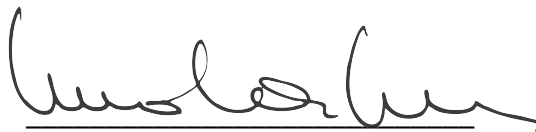
ORDERS the Registry to retain custody over the personal belongings mentioned in ICC-01/12-01/15-50-Conf-Exp-Anx1 and -Anx2 until such time as the Prosecutor will have had an opportunity to inspect them;

ORDERS the Registry to liaise with the Prosecutor in order to arrange the modalities for inspection of these personal belongings;

ORDERS the Registry to reclassify as “public” ICC-01/12-01/15-50-Conf, ICC-01/12-01/15-52-Conf, and ICC-01/12-01/15-56-Conf; and

ORDERS the Registry to reclassify as “confidential” ICC-01/12-01/15-50-Conf-Exp-Anx1 and -Anx2.

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

A handwritten signature in black ink, appearing to read 'Cuno Tarfusser', written over a horizontal line.

Judge Cuno Tarfusser
Single Judge

Dated this 9 December 2015

At The Hague, The Netherlands