

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No.: ICC-01/12-01/15  
Date: 19 January 2017

**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**

**Public redacted version of "Decision Appointing Reparations Experts and Partly Amending Reparations Calendar", 19 January 2017**

To be notified in accordance with Regulation 31 of the Regulations of the Court to:

**Office of the Prosecutor**

Ms Fatou Bensouda  
Mr James Stewart  
Mr Gilles Dutertre

**Counsel for the Defence**

Mr Mohamed Aouini  
Mr Jean-Louis Gilissen

**Legal Representatives of Victims**

Mr Mayombo Kassongo

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparation**

**Office of Public Counsel for  
Victims**

**Office of Public Counsel for the Defence**

**States' Representatives**

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Mr Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

Mr Nigel Verill

**Detention Section**

Mr Patrick Craig

**Victims Participation and Reparations  
Section**

Mr Philipp Ambach

**Others**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**TRIAL CHAMBER VIII** ('Chamber') of the International Criminal Court ('Court' or 'ICC') issues the following 'Decision Appointing Reparations Experts and Partly Amending Reparations Calendar', in the case of *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, having regard to Article 75 of the Rome Statute ('Statute'), Rules 94, 97(2) and 103 of the Rules of Procedure and Evidence ('Rules') and Regulations 24 *bis*, 34 and 44 of the Regulations of the Court ('Regulations').

## **I. Procedural History**

1. On 29 September 2016, the Chamber issued the Reparations Phase Calendar setting the date for submission by the Registry of a list of proposed experts on three topics identified by the Chamber as relevant for reparations proceedings in this case, namely: (i) the importance of international cultural heritage generally and the harm to the international community caused by its destruction; (ii) the scope of the damage caused, including monetary value, to the ten mausoleums and mosques at issue in the case; and (iii) the scope of the economic and moral harm suffered, including monetary value, to persons or organisations as a result of the crimes committed.<sup>1</sup>
2. On 9 December 2016, having been granted an extension of time,<sup>2</sup> the Registry submitted a list of proposed experts.<sup>3</sup>
3. On the same date, the defence team for Mr Al Mahdi ('Defence'),<sup>4</sup> the Legal Representative of Victims ('LRV'),<sup>5</sup> and the Office of the Prosecutor ('Prosecution')<sup>6</sup> submitted their views on the proposed experts.

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<sup>1</sup> ICC-01/12-01/15-172.

<sup>2</sup> Decision on Registry Request for Extension of Time to Identify Experts and Partly Amending the Reparations Phase Calendar, 21 October 2016, ICC-012/12-01/15-177.

<sup>3</sup> List of Proposed Experts Pursuant to Trial Chamber VIII's Decisions ICC-01/12-01/15-172 of 19 September 2016 and ICC-01/12-01/15-177 of 21 October 2016, 9 December 2016, ICC-01/12-01/15-197.

<sup>4</sup> *Observations de la Défense sur l'identification des experts devant intervenir dans la phase de réparations*, ICC-01/12-01/15-198-Conf (notified on 12 December 2016) ('Defence Submissions').

4. Mindful of the necessity to ensure the production of the most complete information on all areas identified by the Chamber, the Chamber appoints the following experts:
  - [REDACTED];
  - [REDACTED];
  - [REDACTED]; and
  - [REDACTED] ('Appointed Experts').
5. The Chamber has noted the Defence's objections regarding certain experts, but will deal with any such concerns upon receipt of the reports in its final order on reparations.<sup>7</sup> *As per* the amended Reparations Phase Calendar set out below, the Defence will be provided with an opportunity to make further submissions and may make specific objections regarding the content of the reports in those submissions.
6. The Registry shall provide the Appointed Experts with all the reasonable logistical and security assistance required to facilitate the expeditiousness of the drafting of the reports. This includes facilitating communication among the experts as well as the organisation of a field mission, if necessary and feasible. Additionally, should the Appointed Experts request access to certain filings, transcripts or evidence relied upon in the Judgement, the Registry shall facilitate such access, in the version available to the Defence. The Appointed Experts may submit a joint or separate reports and may work together as they see fit.
7. Further, the Chamber has noted the LRV's suggestions that information be provided on the two following areas: (i) the economic functioning and

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<sup>5</sup> *Observations du Représentant légal des victimes sur le panel d'experts identifiés par le Greffe en application de la décision ICC-01/12-01/15-172, ICC-01/12-01/15-196-Conf* ('LRV Submissions').

<sup>6</sup> Prosecution's Observations on Identification of Experts on Reparations, ICC-01/12-01/15-195-Conf.

<sup>7</sup> Defence Submissions, ICC-01/12-01/15-198-Conf, para. 10, in particular sub a) and sub e).

administration of the destroyed buildings; and (ii) the traditional mechanisms of conflict resolutions and reparations in Timbuktu.<sup>8</sup> The Defence also suggested that a report be provided on the perception of the reparations provided so far by UNESCO, in particular with regard to the possible use of different materials to rebuild the destroyed buildings.<sup>9</sup> The Chamber directs, to the extent feasible, that the experts also include information on these two areas in their reports.

8. Finally, the Chamber amends the Reparations Phase Calendar as follows:<sup>10</sup>

- (i) The Appointed Experts must submit their reports, separately or jointly, to the Chamber and parties by **24 March 2017**. By this same deadline, the parties are to have disclosed any additional information they wish for the Chamber to consider in its reparations order. This additional information must be clearly identified in formal filings due on the deadline indicated.
- (ii) The parties and the Trust Fund for Victims<sup>11</sup> have a further 50 pages to file submissions on the reports/information presented, submissions of other participants and any other last arguments they wish for the Chamber to consider before rendering its reparations order. These final submissions must be filed by **21 April 2017**.

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<sup>8</sup> LRV Submissions, ICC-01/12-01/15-196-Conf, paras 11-12.

<sup>9</sup> Defence Submissions, ICC-01/12-01/15-198-Conf, para 10 (g).

<sup>10</sup> *See*, in this regard LRV's email on 10 January 2017 at 14:22.

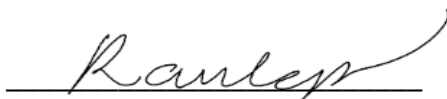
<sup>11</sup> *See*, Trust Fund for Victims, Submissions on the reparations proceedings, 2 December 2016, ICC-01/12-01/15-187, paras 15-16.

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

**APPOINTS** [REDACTED], [REDACTED], [REDACTED] and [REDACTED] as experts for the reparations proceedings; and

**AMENDS** the Reparations Calendar, in accordance with paragraph 8 above.

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



**Judge Raul C. Pangalangan, Presiding Judge**



**Judge Antoine Kesia-Mbe Mindua**



**Judge Bertram Schmitt**

Dated 19 January 2017

At The Hague, The Netherlands