

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

**No. ICC-01/11
Date: 25 March 2025**

PRE-TRIAL CHAMBER I

Before:

**Judge Iulia Antoanella Motoc, Presiding
Judge Reine Adélaïde Sophie Alapini-Gansou
Judge María del Socorro Flores Liera**

SITUATION IN LIBYA

Under seal, *ex parte*, only available to the Registry and the Italian Republic

Decision on the extension of time limit to present submissions

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

☐ **The Office of the Prosecutor**

☐ **Counsel for the Defence**

☐ **Legal Representatives of the Victims**

☐ **Legal Representatives of the Applicants**

☐ **Unrepresented Victims**

☐ **Unrepresented Applicants
(Participation/Reparation)**

☐ **The Office of Public Counsel for
Victims**

☐ **The Office of Public Counsel for the
Defence**

☒ **States' Representatives**
Italian Republic

☐ **Amicus Curiae**

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

☐ **Counsel Support Section**

☐ **Victims and Witnesses Unit**

☐ **Detention Section**

☐ **Victims Participation and
Reparations Section**

☐ **Other**

PRE-TRIAL CHAMBER I (the 'Chamber') of the International Criminal Court (the 'Court' or 'ICC') hereby issues this decision on Italy's request for an extension of the time limit to present its submissions.

I. Relevant procedural history

1. On 17 February 2025, the Chamber invited the Italian Republic ('Italy') to provide, by 17 March 2025, submissions on its failure to surrender Mr Osama Elmasry/Almasri Njeem to the Court following his arrest.¹

2. On 17 March 2025, the Registry transmitted a request from Italy for an extension of the time limit to present its submissions on this matter (the 'Request').²

II. Determination

3. The Chamber notes that Italy has requested an extension of time limit to present its submissions before the lapse of the original time limit. In such a situation, the Chamber 'may extend [... the] time limit if good cause is shown', as per regulation 35 of the Regulations of the Court (the 'Regulations').

4. In its Request, Italy avers that it is currently unable to provide submissions on the matter, as national proceedings have been initiated, and its authorities are bound to respect pre-trial investigation secrecy.³ For this reason, it requests the Chamber to extend the time limit for filing its submissions until domestic proceedings are concluded.⁴

5. Such a request cannot be granted. The Chamber emphasises that the determination of whether a State failed to cooperate with the Court is independent of any national proceedings, especially those commenced after the matter is under consideration by the Chamber. Proceedings before the Court may not be conditioned by any national proceedings.

6. Nevertheless, noting Italy's willingness to engage in further dialogue with the Court,⁵ the Chamber will grant an extension until 22 April 2025, at 16:00, by which Italy should file its submissions on the merit or provide the Chamber with a reasoned explanation for its inability

¹ Invitation to the Italian Republic to provide submissions concerning its failure to surrender Osama Elmasry / Almasri Njeem to the Court following his arrest, 17 February 2025, ICC-01/11-162.

² ICC-01/11-167-US-Exp. The Request was provided to the Registry by the Italian embassy in The Hague on 14 March 2025: ICC-01/11-167-US-Exp-Anx1.

³ ICC-01/11-167-US-Exp-Anx1.

⁴ ICC-01/11-167-US-Exp-Anx1.

⁵ ICC-01/11-167-US-Exp-Anx1.

to do so. In any case, the Chamber will not allow an indefinite postponement of these proceedings, and Italy is strongly encouraged to file its submissions as soon as possible.

7. The Chamber notes that Italy classified the Request as ‘under seal, *ex parte*, only available to the Registry’ without providing a factual or legal basis for its choice of classification. The Chamber further notes that the Request relates to a public document, namely the Chamber’s invitation to Italy to present its submissions,⁶ and that the Prosecution has filed a public request for a finding of non-cooperation under article 87(7) of the Statute⁷ and thus should be made aware of any filings in relation thereto. Moreover, on 17 March 2025, several Italian newspapers reported that Italy requested the Court to provide its submissions after the conclusion of national proceedings. It also appears that one of the annexes to the Request is a document that is made publicly available on an Italian government website, whilst another is an English language translation thereof.⁸ Based on the foregoing, the Chamber cannot identify the reason for Italy’s classification of this Request.

8. Despite the apparent lack of necessity to maintain the classification for the Request, mindful of Italy’s statement that any modifications to the classification require its express and specific consent,⁹ the Chamber instructs Italy to indicate, by 28 March 2025, before 16:00, whether it agrees to reclassify the Request as public, and if not, provide reasons for maintaining the current classification. If Italy considers that the Request should not be reclassified as public, it is instructed to file a public redacted version of its request by that date. Should Italy not indicate whether it agrees to reclassify the Request or fail to provide a public redacted version thereof by the set deadline, the Chamber will order the Registry to reclassify the Request as public, as foreseen in Regulation 23*bis* of the Regulations.

⁶ Invitation to the Italian Republic to provide submissions concerning its failure to surrender Osama Elmasry/Almasri Njeem to the Court following his arrest, 17 February 2025, ICC-01/11-162.

⁷ Public redacted version of the “Prosecution's request for a finding of non-compliance under article 87(7) against the Republic of Italy for the release of Osama Elmasry/Almasri NJEEM”, 25 February 2024, ICC-01/11-163-US-Exp, 25 February 2025, ICC-01/11-163-Red2.

⁸ See ICC-01/11-167-US-Exp-Anx3; ICC-01/11-167-US-Exp-Anx2.

⁹ ICC-01/11-167-US-Exp-Anx4.

FOR THESE REASONS, THE CHAMBER HEREBY,

GRANTS Italy an extension of time until 16:00 on 22 April 2025;

REQUESTS Italy to indicate whether it agrees to reclassify the Request, excluding its annexes, as public, and if not, file a public redacted version thereof by 28 March 2025 before 16:00; and

INSTRUCTS the Registrar to transmit this decision to the competent authorities of Italy.

Done in English. A French translation will follow. The English version remains authoritative.



**Judge Iulia Antoanella Motoc,
Presiding**



**Judge Reine Adélaïde Sophie Alapini-
Gansou**



Judge María del Socorro Flores Liera

Dated this Tuesday, 25 March 2025

At The Hague, The Netherlands