

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/11

Date: 11 November 2025

PRE-TRIAL CHAMBER I

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

SITUATION IN LIBYA

**Public
with Public Annexes 1 and 2**

**Notification of new information related to the
“Decision on Italy’s non-compliance with a request for cooperation”**

Source: Office of the Prosecutor

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

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☐ Legal Representatives of the Victims

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A. INTRODUCTION

1. On 17 October 2025 Pre-Trial Chamber 1 (“Chamber”) issued its “Decision on Italy’s non-compliance with a request for cooperation” (“Decision”).¹ In its Decision, the Chamber (1) found that the Republic of Italy (“Italy”) failed to comply with its international obligations under the Statute, preventing the Court from exercising its functions and powers; (2) deferred its determination as to whether the matter should be referred to the Assembly of States Parties and/or the United Nations Security Council and; (3) invited Italy to provide information on any domestic proceedings relevant to the present case.²

2. On 31 October 2025 Italy filed its “Italy’s response to the Pre-Trial Chamber’s invitation to provide information on relevant domestic proceedings”.³

3. The Prosecution has recently come into possession of new information concerning the timing of the transmission of the Libyan “extradition” request to the Italian Ministry of Justice. Without taking a position on its import, and in light of the ongoing nature of the proceedings, the Prosecution places this material on the record for the Chamber.

B. INFORMATION

4. In its submissions Italy relied on the fact that the Libyan “extradition” request was received by the Minister of Justice before the release of NJEEM. Specifically, Italy argued that the “simultaneous” competing request from Libya “inevitably affected the assessments made by the Italian Government’s Ministry of Justice regarding the order of priority to be given to the requests for cooperation”⁴ and that “[t]he presence of competing requests and the complexity of the evaluation entrusted to the Minister of Justice were ontologically incompatible with any hypothesis of immediate obligation [...] to transmit the concerned documents to the General Prosecutor’s Office at the Court of Appeal of Rome”.⁵

5. As recalled by Italy in their recent filing,⁶ the Italian Tribunal of Ministers (*Tribunale dei Ministri*) on 1 August 2025 finalised its judicial investigation and issued its Report into the

¹ ICC-01/11-209.

² Decision, p. 17.

³ ICC-01/11-211.

⁴ ICC-01/11-177 (“Observations”), p. 8.

⁵ Observations, p. 9. In its additional observations (ICC-01/11-197Anx), Italy further explained that “the extradition request submitted by Libya on 20 January further complicated the Minister of Justice examination [...]” and constituted an additional element of complexity “which prevented the Italian Government from completing its assessments prior to the adoption by the Court of Appeal of Rome of its decision” to release NJEEM in the afternoon of 21 January 2025. Ultimately, “the Libyan extradition request constituted an element that, notably from a factual perspective [...] prevented the Italian Government from acting otherwise, in accordance with the procedure established by Italian law implementing international law (article 59(1) of the Statute)”. See ICC-01/11-197Anx, paras. 15-16.

⁶ ICC-01/11-211, paras. 7-9.

circumstances surrounding the arrest and release of Mr NJEEM.⁷ The 91-page Report⁸ reconstructs the chronology of the relevant events and finds that: (1) the Libyan “extradition” request was notified to the Ministry of Justice only on 22 January 2025 after NJEEM had already been freed and transferred to Libya; and (2) that ministerial staff noted that the “extradition” request could not be executed given that NJEEM had already returned to Libya and that it was devoid of supporting documentation, with no indication of the enforceable judicial title and it was a tactical move aimed at putting the authorities in a difficult position.

6. In particular the Judges found that:

“On 22 January 2025, at 10:39 a.m., the DAG [Department for Justice Affairs] of the Ministry of Justice received an extradition request for Libyan citizen Almasri from the Attorney General of the State of Libya, dated 20 January 2025, and transmitted on the same day—through the Embassy of Libya in Rome—to the Ministry of Foreign Affairs. That note verbale had been delivered *brevi manu* to the Ministry of Foreign Affairs and International Cooperation—Directorate General for Political and Security Affairs, on 21 January 2025, under protocol no. 83-3/273. It is worth noting from the outset that, while the first note verbale from the Libyan Embassy, dated 20 January 2025, had arrived the same day, the one containing the extradition request reached the Ministry of Foreign Affairs on 21 January, and only on 22 January did it reach the Ministry of Justice”.⁹

“Furthermore, according to the documents obtained from AISE [*Agenzia Informazioni e Sicurezza Esterna*] appears that the Italian translation of the extradition request had been carried out—by the Italian Embassy in Tripoli itself—between 6:28 p.m. and 8:02 p.m. on 21 January 2025. Since at that point the person in question was already outside national territory, or rather, had already returned to Libya, they had merely registered the request and closed the case with a finding of no grounds for further action, as there was no obligation to give notice under Article 90 of the Statute, which presupposes the existence of current and concurrent requests—a situation that, in this case, did not exist. In any event, upon examining the request, they noted that it was, from a technical standpoint, a pretextual (or instrumental) extradition request—a tactical move aimed at putting the authorities in a difficult position, should they decide to proceed with it. This assessment was

⁷ See Relazione del Collegio per i Reati Ministeriali del Tribunale Ordinario di Roma (“Report”), Annex 1 (original Italian). As Italy noted, the Italian Parliament on 9 October 2025 denied the authorisation to proceed with the investigation and prosecution of any criminal responsibility of members of the Government (see ICC-01/11-211.para. 10). For the convenience of the Chamber, the Prosecution attaches in Annex 2 a machine generated translation of the Report into English.

⁸ For the benefit of the Chamber, the Prosecution has annexed this Report (Annex 1) and a machine-generated English translation of the Report (Annex 2).

⁹ Report, p. 24, machine generated translation (original Italian: “*Sempre il 22.1.25 alle ore 10:39 era pervenuta al DAG del Ministero della Giustizia una richiesta di estradizione del cittadino libico Almasri da parte del Procuratore Generale dello Stato della Libia, datata 20.1.25 e trasmessa lo stesso giorno, tramite Ambasciata della Libia a Roma, al Ministero degli Esteri. Tale nota risultava consegnata brevi manu al Ministero degli Affari esteri e della Cooperazione internazionale — Direzione Generale per gli affari politici e di sicurezza in data 21.1.2025 prot. 83-3/27. E appena il caso di rilevare sin d'ora che, mentre la prima nota verbale dell'Ambasciata libica, datata 20.1.2574, era pervenuta il giorno stesso, quella con la richiesta di estradizione era pervenuta il 21 al Ministero degli Esteri e solo il 22 gennaio a quello della Giustizia.*”).

supported by the fact that the request in question had arrived completely devoid of official acts or documents, with no indication of the enforceable judicial title and/or arrest warrant, and without the so-called “*reading of the case*” or “*summary*”—that is, the analysis of the case containing a summary of the investigation and the proceedings”.¹⁰

C. CONCLUSION

7. Given the apparent contradiction suggested by the above, the Prosecution considered it necessary to place this material on the record for the Chamber.



Nazhat Shameem Khan
Deputy Prosecutor

Dated this 11th day of November 2025

At The Hague, The Netherlands

¹⁰ Report, p. 24, machine generated translation (original Italian: “In più, dai documenti acquisiti presso l'AISE, risulta che la traduzione in lingua italiana della richiesta di estradizione era stata effettuata, a cura della stessa Ambasciata italiana a Tripoli, in orario compreso tra le ore 18:28 e le ore 20:02 del 21.1.25. Dal momento che la persona indicata era già fuori dal territorio nazionale, o, meglio, già rientrata in Libia, loro si erano limitati a protocollare la richiesta e chiudere il procedimento, con un non luogo a provvedere, non ricorrendo nemmeno l'obbligo di comunicare, ai sensi dell'art. 90 dello Statuto che presuppone l'attualità e la contemporanea pendenza di richieste concorrenti, situazione che, nel caso di specie, non sussisteva. In ogni caso, analizzata la richiesta, avevano rilevato che si trattava tecnicamente di una richiesta di estradizione strumentale, una mossa strumentale per cercare di mettere in difficoltà l'Autorità nell'ipotesi in cui decidesse di dar corso". Tale valutazione era confortata dal fatto che la richiesta in questione era arrivata totalmente sprovvista di provvedimenti e documenti, senza alcuna indicazione del titolo processuale esecutivo e/o del mandato di cattura, accompagnato dal cd. *reading the case o summary*, vale a dire dall'analisi del caso, con un riassunto delle indagini e del procedimento”).