

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/11-01/25
Date: 16 February 2026

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

IN THE CASE OF THE PROSECUTOR v. KHALED MOHAMED ALI EL HISHRI

Public

**Request related to the rights of victims
in the phase preceding the confirmation of charges hearing**

Source: Office of Public Counsel for Victims

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

☒ The Office of the Prosecutor

☒ Counsel for the Defence

D37

☐ 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

☐ Amicus Curiae

REGISTRY

Registrar

Mr. Osvaldo Zavala Giler

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☒ Victims Participation and
Reparations Section

☐ Other

I. INTRODUCTION

1. Counsel of the Office of Public Counsel for Victims (the “OPCV” or the “Office”), assigned to represent potential victims of the case pending the appointment of a team of common legal representative (the “Legal Representatives”),¹ hereby respectfully request Pre-Trial Chamber I (the “Chamber”) to order the Registry to transmit to the OPCV all victim application forms currently in its possession, as well as any subsequent application forms received in the phase preceding the confirmation of charges hearing.

2. In light of said appointment, access to the application forms is essential for the Office to fulfil its statutory mandate. Notwithstanding the clear applicable legal framework and the Court’s established practice in the matter, the Registry’s approach has not been uniform, thereby hampering the Office’s ability to effectively exercise its mandate in assisting victims and victim applicants under regulation 81(4) of the Regulations of the Court (the “Regulations”).

II. SUBMISSIONS

3. The Legal Representatives note that the Chamber appointed the OPCV to represent the potential victims in the present case, as envisaged under regulation 81(4) of the Regulations, with a view to ensuring that victims “*fully enjoy their rights in the crucial phase preceding the confirmation of charges hearing*”.² This task entails, *inter alia*, the provision of advice to victims on their application forms and support in completing said applications, if needed.³

¹ See the “Order on the organisation of the legal representation of victims” (Pre-Trial Chamber I), [No. ICC-01/11-01/25-47](#), 23 December 2025, para. 5 (the “Order”).

² *Idem*, para. 3 and p. 5.

³ See, *inter alia*, the “Decision on Victim’s Participation in Proceedings Related to the Situation in Uganda” (Single Judge, Pre-Trial Chamber II), [No. ICC-01/21-01/25-191](#), 12 March 2012, paras. 2-3; and the “Public Redacted Version Decision on victims’ applications for participation a/0010/06, a/0064/06 to a/0070/06, a/0081/06 to a/0104/06 and a/0111/06 to a/0127/06” (Single Judge, Pre-Trial Chamber II), [No. ICC-02/04-101](#), 13 August 2007, para. 164.

4. The proper discharge of the Office's mandate presupposes comprehensive access not only to the confidential case record, as already recognised by the Chamber,⁴ but also to all relevant and available information concerning the applicants. Limiting such access impairs the Legal Representatives' ability to provide comprehensive representation, particularly in cases involving dual status individuals.

5. This understanding is reflected in the Court's legal framework, notably regulation 116 of the Regulations of the Registry (the "RoR"), which unequivocally provides for the transmission of said information to the Office:

*"Where members of the Office act as duty counsel or as legal representatives of victims or appear before a Chamber on behalf of a victim or victims in respect of specific issues, the Registrar shall, having regard to confidentiality, provide them with such information received in the applications sent by victims and such further information and documents as are necessary for the fulfilment of those functions."*⁵

6. Moreover, the essential nature of the Office's access to the application forms of all applicants when appointed to represent the general interest of potential victims has been consistently recognised in the Court's practice.

7. As early as 2007, chambers considered it appropriate, as a matter of fairness, to instruct the Registry to transmit victims' application forms to the Office so as to allow it to provide applicants with the support and assistance required at different stages of the proceedings.⁶ In the situation in the Democratic Republic of the Congo, Pre-Trial Chamber I made specific reference to regulation 116 of the RoR in ordering the Registry to "*automatically transfer to the OPCV all information regarding unrepresented applicants*".⁷

⁴ See the Order, *supra* note 1, para. 6.

⁵ See regulation 116 of the [Regulations of the Registry](#) (emphasis added).

⁶ See the "Decision on legal representation, appointment of counsel for the defence, protective measures and time-limit for submission of observations on applications for participation a/0010/06, a/0064/06 to a/0070/06, a/0081/06 to a/0104/06 and a/0111/06 to a/0127/06" (Single Judge, Pre-Trial Chamber II), [No. ICC-02/04-01/05-134](#), 1 February 2007, para. 13; and the "Decision on the Requests of the Legal Representative of Applicants on application process for victims' participation and legal representation" (Pre-Trial Chamber I), [No. ICC-01/04-374](#), 20 August 2007 (dated 17 August 2007), paras. 43-44.

⁷ See the "Decision on the Requests of the Legal Representative of Applicants on application process for victims' participation and legal representation", *supra* note 6, para. 43.

8. In recent cases, such as *Saïd*, application forms were shared with the Office when it was appointed as Legal Representative “to represent the collective interests of victims, with a view to protect the interests of, and provide assistance and support to all applicant victims pending completion of the transmission of their applications to the Chamber”.⁸ Similarly, in the *Abd-al-Rahman (Kushayb)* case, the Single Judge, referring to the Office’s role of general support and assistance under regulation 81(4) of the Regulations, indicated that this task – pending the Chamber’s determination of the merits of the applications – must be exercised “to the benefit and in the interests of all applicant victims”.⁹ Accordingly, the Single Judge considered it appropriate “as a matter of principle for the OPCV to receive all the applications received by the VPRS”,¹⁰ that is from all applicants, whether or not they are represented.

9. Notwithstanding the clarity of the applicable legal framework and the consistency of the Court’s practice, the Registry’s approach to the transmission of victims’ application forms to the Office has not been uniform and merits scrutiny by the Chamber. In the course of its involvement across multiple situations and cases, the Office has encountered divergent practices in this regard. Such lack of uniformity has, in practice, affected the Office’s ability to exercise its mandate in assisting victims and victim applicants, potentially undermining the full realisation of their rights and interests.

⁸ See the “Decision on legal representation of victims and related matters” (Single Judge, Pre-Trial Chamber II), [No. ICC-01/14-01/21-119](#), 9 July 2021, para. 30.

⁹ See the “Decision supplementing the Chamber’s first decision on victims’ participation and representation and providing additional guidance” (Single Judge, Pre-Trial Chamber II), [No. ICC-02/05-01/20-277](#), 5 February 2021, para. 19.

¹⁰ *Ibid.*

III. CONCLUSION

10. For the foregoing reasons, the Legal Representatives respectfully request the Chamber to order the Registry to transmit to the OPCV all victim application forms currently in its possession and all future application forms received.



Paolina Massidda



Sarah Pellet

Dated this 16th day of February 2026

At The Hague, The Netherlands