

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No. ICC-01/11-01/25

Date: 12 March 2026

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

Public

Decision on the legal representation of victims

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

☐ 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 the ‘ICC’) issues the present decision on the legal representation of victims (the ‘Decision’).

I. Procedural history and background

1. On 3 December 2025, during the initial appearance hearing, the Chamber orally instructed the Registry to submit its recommendations on the organisation of the common legal representation of victims.¹

2. On 17 December 2025, the Registry filed its observations on the organisation of legal representation of victims, in which it informed the Chamber of an ongoing consultation process on this matter and its intention to submit a report (the ‘Report’) following the said process.²

3. On 23 December 2025, the Chamber issued the ‘Order on the organisation of the legal representation of victims’, in which it ordered the Registry to file the Report by 25 February and responses, if any, by 3 March 2026.³ It further assigned the Office of Public Counsel for Victims (the ‘OPCV’) to temporarily represent the collective interests of potential victims in the case until the mandate of a team of common legal representatives takes effect, so that the interests of victim applicants are appropriately protected.⁴ To this end, the Chamber granted the OPCV access to ‘the case record, including confidential filings, decisions, transcripts of hearings, and evidence disclosed’ but not to ‘documents classified *ex parte*, excluding the victims, nor to under seal or secret’.⁵

4. On 16 February 2026, the OPCV requested the Chamber to order the Registry to transmit all the victim application forms currently in its possession to the OPCV and all such forms it receives in the future, as ‘[l]imiting such access impairs the Legal Representatives’ ability to provide comprehensive representation, particularly in cases involving dual status individuals’.⁶

5. On 25 February 2026, the Registry filed its report on the legal representation of victims (the ‘Report’), in which it, *inter alia*, (i) outlined the methodology of consultations with potential victims, Civil Society Organisations (‘CSOs’), and lawyers who expressed an interest to represent victims; (ii) summarised the information collected; and (iii) proposed two options

¹ [Transcript of hearing Initial Appearance](#), 3 December 2025, ICC-01/11-01/25-T-001-ENG, p. 8, lines 23-25.

² [Registry submissions on the organization of legal representation of victims in the Case](#), 17 December 2025, ICC-01/11-01/25-43.

³ [Order on the organisation of the legal representation of victims](#), 23 December 2025, ICC-01/11-01/25-47, para. 2.

⁴ [Order on the organisation of the legal representation of victims](#), paras 3-5.

⁵ [Order on the organisation of the legal representation of victims](#), para. 6.

⁶ [Request related to the rights of victims in the phase preceding the confirmation of charges hearing](#), ICC-01/11-01/25-67, para.4. The parties did not file a response to the Request within the applicable time limit.

for the organisation of legal representatives for victims.⁷ The first option is to approach each legal representative designated by the applicants to inquire whether they are interested in forming a single team for the duration of the proceedings at the pre-trial proceedings.⁸ The second option is to organise a competitive process amongst legal representatives identified in the Report and for the Registry to select one by the suggested deadline of 19 April 2026.⁹

II. Determination

A. The Organisation of common legal representation of victims

6. The Chamber recalls that, pursuant to article 68(3) of the Statute and rule 90 of the Rules, it must permit the victims to present their views and concerns where their personal interests are affected, as long as the manner in which they do so is not inconsistent with or prejudicial to the rights of the accused. Such views and concerns may be presented by their legal representatives.

7. Rule 90(2), (4), and (5) of the Rules provide that the Chamber may request the victims to choose a common legal representative or representatives to ensure the effectiveness of the proceedings. Upon selecting such legal representatives with the assistance of the Registry if necessary, the Chamber and the Registry shall take all reasonable steps to ensure that the distinct interests of the victims are represented and any conflict of interest is avoided. Regulation 80 of the Regulations of the Court provides that the Chamber may appoint counsel from the OPCV as a legal representative.

8. The Chamber notes the Registry's observation submitted in its Report that it has so far only received a very limited number of victim applications and relevant data due to the current security environment, in which people fear repercussions simply for being in contact with the Court.¹⁰ This difficulty is compounded by the fact that the scope of the charges have not yet been clarified and the victim population remains unestablished.¹¹

9. Despite this setback, the Registry was able to consult 17 victim applicants and four CSOs working directly with victims on the matter of legal representation.¹² Five external counsel were identified by victims, one of whom was chosen by three victims, while the other four

⁷ [Registry Report on the Common Legal Representation of Victims](#), ICC-01/11-01/25-72, with two confidential and *ex parte*, only available to the Registry, Annexes. A confidential redacted version of Annex 1 (the 'Report', ICC-01/11-01/25-72-Conf-Anx1-Red) was filed on the same day. The parties did not file a response to the Report within the applicable time limit.

⁸ Report, paras 45-47.

⁹ Report, para. 48.

¹⁰ Report, para. 42.

¹¹ Report, para. 34.

¹² Report, paras 8, 11.

were chosen by one victim each.¹³ Six applicants indicated their preference to be represented by a lawyer from the OPCV, and one indicated that they want the Registry's assistance in choosing a lawyer from the ICC List of counsel.¹⁴ Four applicants did not make a clear choice.¹⁵ Two of the CSOs indicated their preference for one lawyer. Importantly, the Registry informs that, should the case proceed to trial, a renewed assessment concerning victims' representation may become necessary.¹⁶

10. In the Report, the Registry states that the applicants, CSOs, and potential legal representatives, including the OPCV, identified key qualities and competences they consider the appointed lawyers should have in the circumstances, including: (i) a profound understanding of the Libyan context, including the potential victims' security concerns; (ii) litigation experience in representing victims of international crimes, including gender-based violence; (iii) the ability to be in direct contact with the victims and maintain clear, transparent, empathetic communication with them; (iv) knowledge of Arabic and other languages spoken by victims; and (v) familiarity with secure data storage and transfer and measures to protect confidentiality, also among victims.¹⁷

11. Regarding the number of victim groups, the Chamber notes the Registry reports that: (i) all victims save one expressed that they had no concern being represented in a single group;¹⁸ and (ii) the CSOs also did not report any conflict of interest.¹⁹ In this regard, the Registry advises that, while there may be diverging or conflicting interests among victims, '[g]iven the limited insight at this stage into any potential tensions among the victims [...] it would be premature for [it] to recommend separate legal representation of participating victims'.²⁰ The Registry informs the Chamber that it will continue to monitor whether the separation of victims in different groups becomes necessary at a future stage and advise if such need arises.²¹

12. The Chamber further notes that the OPCV indicated that, while counsel within its office remain available and is committed to continuing their representation, it would be 'premature'

¹³ Report, para. 13.

¹⁴ Report, para. 13.

¹⁵ Report, para. 13.

¹⁶ Report, para. 35.

¹⁷ Report, para. 16-18.

¹⁸ Report, para. 21. This point was also raised by two lawyers (Report, para. 24).

¹⁹ Report, para. 23. The Chamber notes that one of them stated that if migrants are included in the scope of the charges, their distinct interest should be reflected in the representation, possibly by selecting a member of the legal representatives to be in charge of representing migrants.

²⁰ Report, paras 37-41.

²¹ Report, para. 41.

to explore the option of appointing its counsel as a part of a team also comprising external counsel, considering, *inter alia*, the implications of this option on the security of victims.²²

13. In light of the above considerations, in particular the applicants' expressed preferences, the low number of victim applications thus far received and their expected indigence,²³ the fact that the scope of charges for the purpose of the confirmation of charges proceedings remains to be set, and the short time remaining until the scheduled date for the confirmation hearing, the Chamber considers it premature to commence the formal selection process for one or more teams of common legal representatives. Instead, given the circumstances, the Chamber finds it appropriate for the OPCV to continue representing the interests of potential victims at this stage, including the applicants, at least until the applicants' victimhood are determined by the Chamber.²⁴

14. This decision is without prejudice to the Chamber formally appointing the OPCV or selecting a team of external counsel, eventually together with a counsel from the OPCV, in the context of its upcoming decision on the admission of victims to participate in the confirmation proceedings.

15. To assist the Chamber in this regard, the Chamber instructs the Registry to continue consulting with all victim applicants and to submit update report(s) to the Chamber when it considers it appropriate, notably in light of the amount of updated information received. Should the Registry recommend the formation of a team of external lawyers or a combined team of external lawyers and the OPCV, but consider that not all of the external lawyers proposed by the victims should be included in the team, it shall select one or more external counsel according to the procedure specified in paragraph 48 of its Report and propose a team composition to the Chamber by way of an updated report.

B. Request to transmit the victim application forms to the OPCV

16. The Chamber notes Regulation 116 of the Regulations of the Registry, which provides in relevant part that '[w]here members of the [OPCV] act [...] 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

²² Annex 2, ICC-01/11-01/25-72-Conf-Exp-Anx2, p. 3.

²³ All applicants indicated that they are unable to pay for their legal representation, and the Registry anticipates that the participating victims will rely exclusively on the Court's financial assistance (Report, para. 25).

²⁴ See *The Prosecutor v. Laurent Gbagbo*, 4 June 2012, [Decision on Victims' Participation and Victims' Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings](#), ICC-02/11-01/11-138, para. 42.

received in the applications sent by victims and such further information and documents as are necessary for the fulfilment of those functions’.

17. The OPCV, in its request, seeks access to victim application forms for the purpose of providing ‘comprehensive representation, particularly in cases involving dual status individuals’.²⁵ As the OPCV was assigned as the legal representative of potential victims, including the applicants, and having access to all relevant application forms is necessary for the fulfilment of their function, the request is granted in full.

FOR THESE REASONS, THE CHAMBER HEREBY

DECIDES to maintain the assignment of the OPCV to represent potential victims, including the applicants, and to postpone its decision on the appointment of a team of common legal representatives, until the Chamber issues its decision on the admission of participating victims;

GRANTS the OPCV’s request;

INSTRUCTS the VPRS to transmit all victim applications currently in its possession and all future application forms received to the OPCV; and

INSTRUCTS the Registry to continue consulting with applicants and to transmit updated report(s) when appropriate.

²⁵ [Request related to the rights of victims in the phase preceding the confirmation of charges hearing](#), para. 4.

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 Thursday, 12 March 2026

At The Hague, The Netherlands