

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

**No. ICC-01/11-01/25
Date: 11 May 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

THE PROSECUTOR V. KHALED MOHAMED ALI EL HISHRI

Public

Decision on victims' participation and legal representation

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**

☐ **Other**

Section

PRE-TRIAL CHAMBER I (the ‘Chamber’) of the International Criminal Court (the ‘Court’), issues this ‘Decision on victims’ participation and legal representation’ pursuant to article 68(3) of the Rome Statute (the ‘Statute’), rules 85 and 90 of the Rules of Procedure and Evidence (the ‘Rules’).

I. Procedural history

1. On 3 December 2025, during the initial appearance hearing, the Chamber adopted the procedure for admission of victims to participate in the proceedings in accordance with the A-B-C approach articulated in paragraph 96, as well as the time frame stipulated in paragraph 97(1) of the Chamber’s Practice Manual.¹ Additionally, for the purpose of the organisation of the common legal representation for the victims, the Chamber instructed the Registrar to submit any recommendations deemed useful for such organisation by 17 December 2025.²

2. On 23 December 2025, the Chamber issued the ‘Order on the organisation of the legal representation of victims’, in which it, *inter alia*, ordered the Registry to file a Report on the organisation of legal representation of victims by 25 February 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.⁴

3. On 12 March 2026, the Chamber issued a Decision on the legal representation of victims,⁵ maintaining the assignment of the OPCV to represent potential victims, including the applicants, and postponing its decision on the appointment of a team of common legal representatives until a decision on the admission of participating victims has been issued.⁶ It further issued directions to the Registry concerning the formation of a team of external lawyers or a combined team of external lawyers and the OPCV.⁷

¹ Transcript of hearing, 3 December 2025, ICC-01/11-01/25-T-001-ENG, p. 8, lines 17-20.

² Transcript of hearing, p. 8, lines 23-25.

³ Order on the organisation of the legal representation of victims, ICC-01/11-01/25-47, para. 2.

⁴ Order on the organisation of the legal representation of victims, paras 3-5.

⁵ Decision on the legal representation of victims, ICC-01/11-01/25-84.

⁶ Decision on the legal representation of victims, para. 13.

⁷ Decision on the legal representation of victims, para. 15.

4. On 4 May 2026, the Registry transmitted Group A and Group B victim applications,⁸ followed by a report on the applications (the ‘Registry Group A and B Report’).⁹ There were no Group C victim applications transmitted. The Registry Group A and B Report outlines the application process, the number of applications received and the assessment criteria used.¹⁰ An update on the legal representation of victims was submitted with the Registry Group A and B Report.¹¹

5. On 5 May 2026, the OPCV filed its ‘Observations on the common legal representation of victims for the purpose of the confirmation of charges hearing’ (the ‘OPCV Response’).¹²

II. Determination

A. Participation

6. Rule 85(a) of the Rules defines victims as ‘natural persons who have suffered harm as a result of the commission of any crime within the jurisdiction of the Court’. Consistent with the jurisprudence of the Court,¹³ the Chamber recalls that victim applications are assessed to determine whether the requirements for participation in the proceedings have been satisfied *prima facie*, and that an applicant qualifies as victim under rule 85(a) of the Rules provided that: (i) his or her identity as a natural person appears duly established; (ii) the event(s) described in the application for participation constitute(s) one or more crimes within the jurisdiction of the Court and with which the suspect is charged; and (iii) the applicant has suffered harm as a result of the crime(s) with which the suspect is charged.

⁸ Registry transmission of Group A and B Applications for victim participation in pre-trial proceedings ICC-01/11-01/25-110, with 67 Confidential *ex parte*, only available to the Registry.

⁹ Registry Report on Group A and B applications and update on the victims’ legal representation, ICC-01/11-01/25-112-Conf, with Confidential Annex 1 and Confidential *ex parte* Annexes 2, 3, 4 and 5 available only to the Registry.

¹⁰ Registry Group A and B Report, paras 13-17.

¹¹ Annex 3 to the Registry Group A and B Report, ICC-01/11-01/25-112-Conf-Exp-Anx3.

¹² ICC-01/11-01/25-114-Conf-Exp.

¹³ See e.g. Pre-Trial Chamber II, *The Prosecutor v. Maxime Jeoffroy Eli Mokom Gawaka*, [Decision on victim applications for participation in the proceedings](#), 7 August 2023, ICC-01/14-01/22-254-Red, para. 21; Pre-Trial Chamber II, *The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman* (‘Ali Kushayb’), [Decision establishing the principles applicable to victims’ and representation during the Confirmation Hearing](#), 18 January 2021, ICC-02/05-01/20-259, para. 17; Pre-Trial Chamber II, *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, [Decision regarding the Registry’s Outstanding Transmissions of Applications for Victim Participation](#), 13 September 2019, ICC-01/14-01/18-338, para. 28; Pre-Trial Chamber I, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, [Decision Establishing the Principles Applicable to Victims’ Applications for Participation](#), 24 May 2018, ICC-01/12-01/18-37-tENG, para. 48; Pre-Trial Chamber I, *The Prosecutor v. Laurent Gbagbo*, [Decision on Victims’ Participation and Victims’ Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings](#), 4 June 2012, ICC-02/11-01/11-138, para. 20.

7. The Chamber further notes that, barring a clear, material error in the Registry's assessment of Groups A and B applications, the Chamber, taking into account the Registry's assessment, will decide. While the Registry's conclusions may be of assistance, it is for the Chamber to ultimately authorise or reject an applicant to participate in the proceedings.¹⁴

8. The Registry Group A and B Report reveals that VPRS assessed 64 applications classified as Group A.¹⁵ The Chamber, not having identified any clear, material error in the VPRS's assessment, concurs with it, and considers that the minor discrepancies identified by the Registry in the cited application¹⁶ do not affect the overall credibility of the information provided therein. Accordingly, the Chamber decides to authorise the 64 Group A applicants to participate as victims in the present proceedings.

9. The VPRS has further assessed that three applications belong to Group B because they fall outside the temporal scope of the charges.¹⁷ The Chamber has not identified any clear, material error in the Registry's assessment and therefore decides not to authorise these applicants to participate as victims in the present proceedings.

B. Legal representation

10. The Chamber incorporates by reference the relevant legal framework applicable to legal representation of victims as cited in its earlier decision.¹⁸

11. The Chamber notes that the VPRS engaged with a number of Civil Society Organisations (CSOs) and lawyers who are in contact with victims residing both inside and outside Libya¹⁹ and that, notwithstanding the security situation in Libya, it has been able to interact directly with a number of victims who reside inside and outside Libya, through secure channels and modes of communication.²⁰ Further, the VPRS continued to receive and process applications until the beginning of May 2026²¹ and, having received 67 application forms thus far, the Registry is of the view that the number of applicants remains particularly low compared to the number of Mitiga prison detainees who may qualify as victims.²² The Registry observes that

¹⁴ See Chambers Practice Manual, Eighth Edition, 2024, para. 97(x).

¹⁵ Annex 1 to the Registry Group A and B Report, ICC-01/11-01/25-112-Conf-Anx1.

¹⁶ Annex 2 to the Registry Group A and B Report.

¹⁷ Annex 2 to the Registry Group A and B Report.

¹⁸ Decision on the legal representation of victims, paras 6-7.

¹⁹ Registry Group A and B Report, para. 13.

²⁰ Registry Group A and B Report, para. 15.

²¹ Registry Group A and B Report, para. 16.

²² Registry Group A and B Report, para. 17.

victims may have refrained from applying for participation pending greater clarity regarding the exact scope of the case and envisages that many victims are waiting for the confirmation of charges before submitting applications.²³

12. The Registry reports that four external counsel and the OPCV have been identified as potential legal representatives by victims.²⁴ Further that, the four lawyers indicated that they agree to be part of a common legal representation of victims but that the OPCV expressed reservations regarding the adoption of a CLRV model for the specific case.²⁵ The OPCV is concerned that the creation of a single team will necessitate the sharing of victim related information among the team members and, in light of the circumstances in this case, that would result in heightened security risks for victims, especially dual-status individuals.²⁶ Further the Registry indicates that the CSOs who assist the victims have also expressed security concerns.²⁷

13. The Chamber notes the Registry's submission that its ability to make a comprehensive recommendation is constrained by the relatively low number of applications received, as well as the limited time left before the commencement of the confirmation of charges hearing.²⁸ Thus, the Registry recommends that any decision on the common legal representation of victims at this juncture is to be expressly limited to the pre-trial stage only.²⁹ The Chamber further notes the Registry's submission that, it is unable to 'make a recommendation for a team composition that could potentially exclude one or more external counsel following an open, transparent and objective selection process – during which concerns such as those levelled in the present proceedings could be conclusively assessed'.³⁰ In this regard, the Registry submits that the limited time left before the start of the confirmation hearing does not allow for the proper completion of the full sequence of procedural steps required under the applicable framework.³¹

14. Given this, the Registry proposes two options: (1) extending the mandate of the OPCV for the purpose of the confirmation of charges hearing or; (2) appointing a CLRV team

²³ Registry Group A and B Report, para. 19.

²⁴ Annex 3 to the Registry Group A and B Report, para. 2.

²⁵ Annex 3 to the Registry Group A and B Report, para. 7.

²⁶ OPCV Response, para. 11.

²⁷ Annex 3 to the Registry Group A and B Report, para. 8.

²⁸ Annex 3 to the Registry Group A and B Report, para. 10.

²⁹ Annex 3 to the Registry Group A and B Report, para. 10.

³⁰ Annex 3 to the Registry Group A and B Report, para. 15.

³¹ Annex 3 to the Registry Group A and B Report, para. 15.

composed of counsel from the OPCV and three external lawyers, and a victim who could continue to be represented by one external counsel only.³²

15. In light of the above, the Chamber considers that the present circumstances do not allow for the completion of the necessary procedural steps by the Registry to formulate a comprehensive recommendation concerning the legal representation of victims for the purposes of the confirmation proceedings. Particularly in the circumstances described above, and noting rules 86 and 90(3) of the Rules, the Chamber emphasises that it is important to allow proper time for the completion of such steps given the security concerns pointed out by certain victims and the OPCV generally,³³ and by the CSOs and the OPCV in relation to the appointment of one of the external counsel.³⁴

16. In addition, taking into account: (i) the low number of applications received thus far compared with the alleged number of victims identified in the Document Containing the Charges; (ii) the absence of an apparent conflict of interest between victims; and (iii) that, as observed, by the OPCV,³⁵ the appointment of external counsel, with different levels of familiarity with the case record and with the Libya situation more broadly, may significantly hinder a joint team's ability to coordinate its interventions in preparation for the imminent confirmation of charges hearing, the Chamber finds it appropriate to maintain the OPCV's appointment for the purposes of the confirmation of charges hearing. The Chamber is satisfied that the interests of other victims can be represented by the OPCV, who has full familiarity with the present case and can continue representing the collective interests of victims.

17. The Chamber recalls that the modalities of the participation of victims at the confirmation hearing, including through their legal representation, are out set in the Chamber's order of 28 April 2026.³⁶

³² Annex 3 to the Registry Group A and B Report, para. 16.

³³ Annex 3 to the Registry Group A and B Report, para. 3; OPCV Response, paras 11-12. The Chamber notes the Second Report of the Registry on the Security and Political Situation in the State of Libya, filed on 4 May 2026, ICC-01/11-01/25-111, with one Confidential Annex.

³⁴ Annex 5 to the Registry Group A and B Report; OPCV Response, paras 15-17. The Chamber further notes the email communication between said external counsel and VPRS, dated 7 May 2026 at 13:58.

³⁵ OPCV Responses, paras 13-14.

³⁶ Order setting the schedule and directions for the confirmation of charges hearing, ICC-01/11-01/25-106.

FOR THESE REASONS, THE CHAMBER HEREBY

AUTHORISES the participation in the present proceedings of the Group A victims indicated at paragraph 8 above;

DECIDES to reject the Group B applications as indicated at paragraph 9 above;

DECIDES to maintain the assignment of the OPCV to represent the 64 admitted victims for the purpose of the confirmation proceedings; and

INSTRUCTS the Registry to continue consulting with applicants and to transmit updated report(s) when appropriate, and be ready to provide an updated report should any of the charges be confirmed.

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 Monday, 11 May 2026

At The Hague, The Netherlands