

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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No.: ICC-01/11-01/25

Date: 22 May 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

Public Redacted version of “Observations on the common legal representation of victims for the purpose of the confirmation of charges hearing”

No. ICC-01/11-01/25-114 dated 5 May 2026

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

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☐ 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 until Pre-Trial Chamber I’s (the “Chamber”) decision on the admission of victims to participate in the present proceedings (the “Legal Representatives”),¹ hereby submit their observations on the common legal representation of victims for the purpose of the confirmation of charges hearing.

II. PROCEDURAL BACKGROUND

2. 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(i) of the Chambers Practice Manual.² It also instructed the Registry to submit its recommendations on the organisation of legal representation of victims by 17 December 2025.³

3. On 17 December 2025, the Registry filed submissions informing the Chamber of an ongoing consultation process on the organisation of legal representation of victims and its intention to submit a report following said process.⁴

4. On 23 December 2025, the Chamber issued an order in which it: (i) instructed the Registry to file a report on the legal representation of victims by 25 February 2026, and responses thereto by 3 March 2026;⁵ (ii) assigned the OPCV to temporarily represent the collective interests of potential victims in the case until the mandate of a

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; and the “Decision on the legal representation of victims” (Pre-Trial Chamber I), [No. ICC-01/11-01/25-84](#), 12 March 2026, para. 13.

² See the transcript of the initial appearance hearing held on 3 December 2025, [No. ICC-01/11-01/25-T-001-ENG](#), p. 8, lines 17-20; and the [Chambers Practice Manual](#), paras. 96 and 97(i).

³ See *ibid.* [No. ICC-01/11-01/25-T-001-ENG](#), p. 8, lines 23-25.

⁴ See the “Registry submissions on the organization of legal representation of victims in the Case”, [No. ICC-01/11-01/25-43](#), 17 December 2025.

⁵ See the “Order on the organisation of the legal representation of victims”, *supra* note 1, para. 2.

team of common legal representatives takes effect, so that their interests are appropriately protected;⁶ and (iii) 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.⁷

5. On 16 February 2026, the Legal Representatives requested the Chamber to order the Registry to transmit to the OPCV all victim application forms in its possession, as well as all future application forms received, so as to enable the Office to provide comprehensive legal representation to the applicants.⁸

6. On 25 February 2026, the Registry filed its report on the legal representation of victims.⁹

7. On 12 March 2026, the Chamber issued its decision on the legal representation of victims in which it: (i) maintained the appointment of the OPCV to represent potential victims, including the applicants, at least until the Chamber's decision on the admission of victims to participate in the proceedings;¹⁰ (ii) instructed the Registry to continue consulting with all victim applicants and to submit update report(s) to the Chamber when appropriate;¹¹ and (iii) granted the Office's request, ordering the Registry to transmit all victim applications in its possession and all future application forms received to the OPCV.¹²

8. On 4 May 2026, the Registry submitted the "Registry Report on Group A and B applications and update on the victims' legal representation", transmitting 64 victim

⁶ *Idem*, paras. 3-5.

⁷ *Idem*, para. 6.

⁸ See the "Request related to the rights of victims in the phase preceding the confirmation of charges hearing", [No. ICC-01/11-01/25-67](#), 16 February 2026.

⁹ See the "Registry Report on the Common Legal Representation of Victims", [No. ICC-01/11-01/25-72](#), 25 February 2026.

¹⁰ See the "Decision on the legal representation of victims", *supra* note 1, para. 13.

¹¹ *Idem*, para. 15.

¹² *Idem*, para. 17.

applications under Group A, and three under Group B, as well as providing an update on the victims' legal representation.¹³

III. CLASSIFICATION

9. Pursuant to regulation 23*bis*(1) of the Regulations of the Court, the present filing is classified as confidential *ex parte*, only available to the OPCV, as it contains information only known to the Legal Representatives and/or not accessible to the Registry at this stage of the proceedings.

IV. SUBMISSIONS

10. The Legal Representatives note that the Registry recently consulted six lawyers (four external counsel and two counsel from the OPCV) in relation to the possibility of composing a unified team of common legal representatives for the purposes of the confirmation of charges hearing. In this regard, the Legal Representatives reiterate their readiness to work collectively within a unified team of appointed lawyers, as demonstrated in previous proceedings.¹⁴ However, given the Office's broad mandate to represent and protect the interests of potential victims,¹⁵ they consider it necessary to highlight certain case-specific issues that might materially affect the feasibility and effectiveness of such an arrangement at this stage of the proceedings.

11. First, the Legal Representatives draw attention to the security implications inherent in the composition of a unified team of common legal representatives. [REDACTED]. The appointment of a single team would require the sharing of all victim-related information among its members. In the present circumstances, this

¹³ See the "Registry Report on Group A and B applications and update on the victims' legal representation", [No. ICC-01/11-01/25-112-Red](#), 4 May 2026, para. 2. The relevant annexes on the organisation of the common legal representation are not available to the OPCV.

¹⁴ See, most recently, the "Decision on victims' participation and legal representation" (Pre-Trial Chamber I), [No. ICC-01/21-01/25-358](#), 26 January 2026, para. 29.

¹⁵ See regulation 81(4) of the [Regulations of the Court](#).

would heighten the security risks already identified by the Prosecution¹⁶ and the Registry,¹⁷ [REDACTED].¹⁸

12. The Legal Representatives emphasise that their concerns do not reflect any doubt as to the ability of any appointed lawyer to comply fully with the confidentiality obligations imposed by the Court's legal framework and by the Code of Professional Conduct for Counsel.¹⁹ Nonetheless, they respectfully submit that disclosing highly sensitive victim-related information [REDACTED] may not align with the best practices developed by the Victims and Witnesses Section and consistently applied before the Court. Those practices generally seek to limit the dissemination of confidential or security-sensitive information to what is strictly necessary for the effective performance of counsel's mandate.²⁰ In the current circumstances, broader

¹⁶ See, *inter alia*, the "Corrected version of 'Prosecution's application under regulation 35 to extend the disclosure deadline for the arrest warrant materials of 32 witnesses'", No. ICC-01/11-01/25-35-Conf-Corr-Red and [No. ICC-01/11-01/25-35-Corr-Red](#), 9 December 2025, paras. 10-27.

¹⁷ [REDACTED]: "[REDACTED]." See also [REDACTED].

¹⁸ See the "Decision on the Prosecution's requests to authorise the non-disclosure of the identity and identifying information of 17 witnesses" (Pre-Trial Chamber I), No. ICC-01/11-01/25-69-Conf-Red and [No. ICC-01/11-01/25-69-Red](#), 20 February 2026; the "Decision on the Prosecution's request for authorisation to submit anonymous summaries of ten witnesses" (Pre-Trial Chamber I), No. ICC-01/11-01/25-99-Conf-Red and [No. ICC-01/11-01/25-99-Red](#), 10 April 2026; the "Decision on the Prosecution's request for authorisation to submit anonymous summaries of parts of P-0361, P-1570, P-1666, P-1692 and P-1737's evidence" (Pre-Trial Chamber I), No. ICC-01/11-01/25-100-Conf-Red and [No. ICC-01/11-01/25-100-Red](#), 10 April 2026; and the "Decision on the Prosecution's requests to authorise the non-disclosure of the identity as well as certain information and materials related to 12 witnesses" (Pre-Trial Chamber I), No. ICC-01/11-01/25-101-Conf-Red and [No. ICC-01/11-01/25-101-Red](#), 10 April 2026. The Legal Representatives note that the Chamber, by way of these decisions, has authorised: (i) the non-disclosure of the identities of dual status witnesses P-0439, P-0497, P-0635, P-0650, P-0670, P-0719, and P-1692; and (ii) the submission of an anonymous summary of the relevant parts of evidence provided by dual status witness P-1692. The Prosecution has also requested the non-disclosure of annexes and associated materials of dual status witness P-0446. See the "Confidential Redacted Version of 'Prosecution's request for authorisation to withhold certain annexes to statements and associated materials related to P-0371, P-0446, P-0595, P-0711 and P-0720', ICC-01/11/01/25-76-Conf-Exp, 3 March 2026", No. ICC-01/11-01/25-76-Conf-Red and [No. ICC-01/11-01/25-76-Red](#), 10 March 2026.

¹⁹ See article 8 of the [Code of Professional Conduct for Counsel](#).

²⁰ In this regard, the Legal Representatives recall the "need-to-know" principle, according to which information may remain undisclosed, even to the Defence, in order not to create unnecessary or disproportionate risks to other participants in the proceedings. See also "[REDACTED]; the "Registry Submission of the Dual Status Witness Protocol", [No. ICC-01/11-01/25-63](#), 2 February 2026 (dated 30 January 2026); and the "Judgment on the appeal of the Prosecutor against the decision of Pre-Trial Chamber I entitled 'First Decision on the Prosecution Request for Authorisation to Redact Witness Statements'" (Appeals Chamber), [No. ICC-01/04-01/07-475 OA](#), 13 May 2008, paras. 55-57.

disclosure risks exceeding that threshold and may inadvertently exacerbate the security concerns already identified in this case.²¹

13. Second, the Legal Representatives note that the decision on common legal representation is expected to be issued immediately prior to the confirmation of charges hearing. In practice, this timing would make it difficult, if not impossible, for any external counsel newly appointed to adequately familiarise themselves with the case record. It will also significantly hinder the team's ability to coordinate its interventions in preparation for the confirmation hearing, thereby affecting the quality and coherence of representation afforded to the victims.

14. Third, the Legal Representatives emphasise that the lawyers currently involved in the matter possess differing levels of familiarity with the broader Libyan Situation. Some have only recently been exposed to the situation, while others have engaged exclusively with specific categories of potential victims. This uneven distribution of contextual knowledge further complicates the establishment of an effective and cohesive single team on the eve of a major procedural milestone.

15. Finally, [REDACTED].

16. [REDACTED]: [REDACTED].²² [REDACTED].²³ [REDACTED].

17. Indeed, [REDACTED]²⁴ may reasonably affect victims' willingness to participate freely, including that of potential future applicants. In the current context, it is foreseeable that some victims may feel uncomfortable or reluctant [REDACTED]. [REDACTED]. Victim participation depends on trust and the ability to communicate openly.

18. In the specific circumstances of the case — in which security considerations are paramount, the number of potential victims is very limited, [REDACTED], and the

²¹ See *supra* para. 11.

²² [REDACTED].

²³ [REDACTED]. [REDACTED].

²⁴ *Idem*.

majority have opted to be represented by the OPCV²⁵ — the Office remains available to continue representing the victims for the purpose of the confirmation of charges hearing.²⁶

Respectfully submitted,



Paolina Massidda



Sarah Pellet

Dated this 22nd day of May 2026

At The Hague, The Netherlands

²⁵ [REDACTED].

²⁶ See, for a similar situation, the “Decision on victim applications for participation in the proceedings and on legal representation of victims” (Pre-Trial Chamber II), [No. ICC-01/14-01/21-199](#), 6 October 2021, paras. 51-53.