

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 31 July 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

**Victims' response to the "Defence consolidated request for leave to reply to
Prosecution and Victims responses to Defence request for leave to appeal
Decision on confirmation of charges"
(ICC-01/21-01/25-158)**

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

☐ 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. PROCEDURAL BACKGROUND

1. The Confirmation of Charges hearing took place from 19 to 21 May 2026.¹
2. On 16 July 2026, Pre-Trial Chamber I (the “Chamber”) issued the Decision confirming the charges (the “Confirmation Decision”),² confirming all the charges brought against Mr El Hishri and committing him to trial.
3. On 17 July 2026, the Registrar transmitted the record of the proceedings to the Presidency.³
4. On 20 July 2026, the Presidency referred the case to a newly constituted Trial Chamber VII.⁴
5. On 22 July 2026, Trial Chamber VII elected its Presiding Judge and designated its Single Judge.⁵ On the same day, the Defence filed a request for leave to appeal the Confirmation Decision (the “Request for Leave to Appeal”),⁶ and the Registry transmitted to Trial Chamber VII the case record.⁷
6. On 24 and 27 July 2026, respectively, the Prosecution and the Common Legal Representatives of Victims (the “CLRV”) responded to the Request for Leave to Appeal (the “Victims’ Response”, and together the “Responses”).⁸

¹ See the transcripts of the hearing held from 19 to 21 May 2026, [No. ICC-01/11-01/25-T-004-ENG ET WT](#), [No. ICC-01/11-01/25-T-005-ENG CT WT](#), and [No. ICC-01/11-01/25-T-006-ENG ET WT](#).

² See the “Decision on confirmation of the charges against Mr Khaled Mohamed Ali El Hishri” (Pre-Trial Chamber I), [No. ICC-01/11-01/25-143](#), 16 July 2026 (the “Confirmation Decision”).

³ See the “Transmission to the Presidency of the Record of the Proceedings, including the ‘Decision on the confirmation of charges against Mr Khaled Mohamed Ali El Hishri’, ICC-01/11-01/25-143, dated 16 July 2026”, [No. ICC-01/11-01/25-146](#), 17 July 2026.

⁴ See the “Decision constituting Trial Chamber VII and referring to it the case of *The Prosecutor v. Khaled Mohamed Ali El Hishri*” (Presidency), [No. ICC-01/11-01/25-147](#), 20 July 2026.

⁵ See the “Decision notifying the election of the Presiding Judge and the Single Judge” (Trial Chamber VII), [No. ICC-01/11-01/25-150](#), 22 July 2026.

⁶ See the “Defence request for leave to appeal the Decision on confirmation of charges”, [No. ICC-01/11-01/25-152](#), 22 July 2026 (the “Request for Leave to Appeal”).

⁷ See the “Transmission to Trial Chamber VII of the Record of the Proceedings, including the ‘Decision on the confirmation of charges against Mr Khaled Mohamed Ali El Hishri’, ICC-01/11-01/25-143, dated 16 July 2026”, [No. ICC-01/11-01/25-153](#), 22 July 2026.

⁸ See the “Prosecution response to ‘Defence request for leave to appeal ‘Decision on confirmation of charges’”, [No. ICC-01/11-01/25-154](#), 24 July 2026; and the “Victims’ response to the Defence request for

7. On 29 July 2026, the Defence requested leave to reply to the Responses (the “Request for Leave to Reply”).⁹

II. SUBMISSIONS

6. In accordance with regulation 24(5) of the Regulations of the Court, a party or participant seeking leave to reply must demonstrate that any issue raised in the response could not reasonably have been anticipated.¹⁰

7. The Defence seeks to address the CLRV’s arguments that (i) the issues raised by the Defence in the Request for Leave to Appeal are insufficiently developed or amount to mere disagreements with the Confirmation Decision;¹¹ (ii) those issues would not significantly affect the fair and expeditious conduct of the proceedings or the outcome of the trial;¹² and (iii) the Defence failed to demonstrate that immediate appellate intervention is necessary to materially advance the proceedings.¹³

8. The Defence does not raise any new issue arising from the Victims’ Response. Rather, it seeks to respond to arguments concerning the legal requirements governing requests for leave to appeal under article 82(1)(d) of the Rome Statute. Said requirements form the applicable legal framework for the determination of the Request for Leave to Appeal and, as such, were entirely foreseeable to the Defence.¹⁴

leave to appeal the Decision on confirmation of charges (ICC-01/21-01/25-152)”, [No. ICC-01/11-01/25-156](#), 27 July 2026 (the “Victims’ Response”).

⁹ See the “Defence consolidated request for leave to reply to Prosecution and Victims responses to Defence request for leave to appeal Decision on confirmation of charges”, [No. ICC-01/11-01/25-158](#), 29 July 2026 (the “Request for Leave to Reply”).

¹⁰ See regulation 24(5) of the Regulations of the Court, stating that “[p]articipants may only reply to a response with the leave of the Chamber, unless otherwise provided in these Regulations. Unless otherwise permitted by the Chamber, a reply must be limited to new issues raised in the response which the replying participant could not reasonably have anticipated”. See also, *inter alia*, the “Decision on the Defence’s challenge to the jurisdiction of the Court pursuant to article 19 of the Statute” (Pre-Trial Chamber I), [No. ICC-01/11-01/25-142](#), 15 July 2026, para. 20.

¹¹ See the Request for Leave to Reply, *supra* note 9, paras. 12-13.

¹² *Idem*, para. 17.

¹³ *Idem*, para. 21.

¹⁴ See the Victims’ Response, *supra* note 8, paras. 6-11; and the Request for Leave to Appeal, *supra* note 6, paras. 12-21.

9. Indeed, it was incumbent upon the Defence, in submitting its Request for Leave to Appeal, to demonstrate that the conditions for granting leave to appeal were satisfied. This required the Defence to identify an appealable issue and explain how that issue could significantly affect the fair and expeditious conduct of the proceedings or the outcome of the trial, and how its immediate resolution could materially advance the proceedings.¹⁵ The Defence cannot rely on a reply as an opportunity to strengthen or reformulate the arguments advanced in its Request for Leave to Appeal.¹⁶

10. Allowing the Defence to reply in these circumstances would effectively permit it to cure deficiencies in its Request for Leave to Appeal by advancing arguments that should have been included in the Request itself.

III. CONCLUSION

11. For the foregoing reasons, the CLRV respectfully request the Chamber to reject the Request for Leave to Reply.



Sarah Pellet



Paolina Massidda

Dated this 31st day of July 2026

At The Hague, The Netherlands

¹⁵ *Ibid.*

¹⁶ See, for instance, the “Decision on the request by Counsel for Mathieu Ngudjolo for leave to reply” (Trial Chamber II), [No. ICC-01/04-02/12-296-tENG](#), 8 October 2015, para. 7.