

Annex

Public

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/11

Date: 31 October 2025

PRE-TRIAL CHAMBER I

Before: Judge Iulia Antoanella Motoc, Presiding Judge
Judge María del Socorro Flores Liera
Judge Reine Adélaïde Sophie Alapini-Gansou

SITUATION IN LIBYA

Public

**Italy's response to the Pre-Trial Chamber's invitation to provide information on
relevant domestic proceedings - ICC-01/11-209**

Source: Italian Republic

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

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| ☒ 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 |

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Honourable Court,

1. I hereby refer to PRE-TRIAL CHAMBER I Decision No. ICC-01/11 dated 17 October 2025, "SITUATION IN LIBYA – Decision on Italy's non-compliance with a request for cooperation".
2. In particular, I hereby respond to the invitation addressed to Italy by Pre-Trial Chamber I *"to provide information on any domestic proceedings relevant to the present case, and an indication of the impact that these proceedings could have on Italy's future cooperation with the Court in the execution of cooperation requests for the arrest and surrender of suspects."*
3. First of all, I wish to point out that the Almasri case and the ensuing proceedings initiated against Italy by this Court have triggered a heated political, judicial, and academic debate within Italy's Parliament and judicial institutions, as well as in the Press and specialised magazines; this Court, on the other hand, already has documentation in this regard available.
4. The Almasri case was for Italy the first application of Law No. 237/2012, which implements the Rome Statute; not only did such circumstance contribute to fuelling the public debate, but it is also of key importance for correctly interpreting the conduct of Italy's Government, Judiciary, and Police Forces, as argued within the Submissions we conveyed to this Court in May and July 2025.
5. The very experience gained with the Almasri case has led Italy – within all its branches: Parliament, Government and Judiciary – to undertake a review of the methods in which the cooperation system outlined by Italy's Law No. 237/2012 must operate, so as to comply with the international obligations to this Court – which Italy confirms it wants to respect – within the framework of national security interests as well as our Nation's geopolitical position and constitutional and domestic legislation.
6. Our Government, in particular, is committed to reviewing and enhancing the practical methods and legal forms of communication between State bodies in cases of requests for cooperation by this Court for the arrest and surrender of suspects. A possible revision of Law No. 237/2012 is also being considered. On 30 October 2025 the Court of Appeal of Rome, in turn, raised an issue of constitutional legitimacy regarding Law No. 237/2012 sections that do not provide that the General Prosecutor shall submit his/her requests and do not establish that the same Court of Appeal of Rome shall deliberate on them also following the direct transmission of cooperation requests from the International Criminal Court, giving notice thereof to the Ministry of Justice.
7. Furthermore, as communicated to this Court on 13 March 2025, the Italian Judiciary, within its independence, instituted legal proceedings precisely regarding the circumstances that led to Mr. Osama Almasri's release and transfer to Libya.

8. More in detail, on 27 January 2025 the President of the Council of Ministers, two Ministers, and an Undersecretary of State to the Presidency of the Council of Ministers of the Italian Republic were placed under judicial investigation by Rome Chief Prosecutor for the crimes of failure to fulfill their duties, as well as aiding and abetting and embezzlement; the following day, in compliance with Constitutional Law No. 1/1989, the above Prosecutor sent the related documents to the so-called Tribunal of Ministers (*Tribunale dei Ministri*), which has jurisdiction to find whether the actions attributed to Members of the Government in the performance of their duties constitute an offence and, if so, to request the Parliament for authorisation to institute legal proceedings against them.
9. On 1st August 2025, the above Tribunal of Ministers dismissed the case against Italy's President of the Council of Ministers and asked the Parliament for authorisation to prosecute the other persons under investigation for the crimes ascribed to them. The two Ministers and the Undersecretary, in turn, argued that their actions had resulted from compelling and insurmountable national security interests.
10. On 9 October 2025, following an extensive and heated debate, Italy's Chamber of Deputies denied, by a qualified majority, the authorisation to prosecute the above three members of the Italian Government, establishing that their actions within the Almasri case were aimed at safeguarding constitutionally relevant State interests and pursuing a pre-eminent public interest.
11. Against Parliament's decision, the Judiciary has the power to raise the issue of a conflict of State powers attribution before the Constitutional Court; furthermore, the issue may be raised without any set deadlines to be complied with. The Constitutional Court judged analogous appeals admissible on several occasions (Please, see: Decisions No. 217/1994 and No. 212/2016).
12. A second investigation connected to the Almasri case, which concerns a high-ranking official of the Ministry of Justice, was formalized by Rome's Prosecutor Office. The Public Prosecutor's Office is, of course, independent and the duration of the proceedings is in no way predictable.
13. In response to the invitation set forth by Pre-Trial Chamber I, I hereby highlight that the jurisdictional and parliamentary passages of the Almasri case, widely reported and disseminated to the public by the media, have at all levels clearly raised awareness of how significant, rich in implications and therefore complex the cooperation with this Court is. Such awareness can only have a positive impact on the process of reviewing the methods for operating the system outlined by Italy's Law No. 237/2012 (as referred to in Point 5 above) and, ultimately, on future requests for cooperation.
14. In conclusion, Italy renews its firm intention to cooperate positively with the International Criminal Court.



Augusto Massari
Ambassador of Italy to the Kingdom of the Netherlands

Dated this 31st of October 2025

At The Hague, the Netherlands