

Annex II

Public Redacted version

Observations linked to victim participation issues

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Introduction

1. In compliance with Trial Chamber VII (“Chamber”)’s order scheduling the first status conference, in which the Chamber ordered the parties and participants to provide observations on a number of issues,¹ the Registry provides below:
 - I. an update and forecast on additional victim applications for participation in the case of *The Prosecutor v. Khaled Mohamed Ali El Hishri* (“Case”);
 - II. other observations relevant to the participation of victims at trial; and
 - III. an updated report on the legal representation of victims.²

I. Update and forecast regarding victim applications in the Case

A. Update on applications received

2. To date, the Registry has received **102** applications including 99 individual and three ‘household’³ applications for participation and reparations in the proceedings in relation to the Case.
3. Of these, 67 applications were transmitted to PTC I in accordance with the procedure adopted for the admission of victims to participate in the proceedings (“A-B-C Approach”):⁴ 64 applications were transmitted as Group

¹ Trial Chamber VII, “Order Scheduling the First Status Conference”, dated 27 July 2026 and notified on 28 July 2026, ICC-01/11-01/25-157, and in particular para. 1.(I).

² See Pre-Trial Chamber I, “Decision on victims’ participation and legal representation”, 11 May 2026, ICC-01/11-01/25-117, page 8 (“Decision on Victim Participation”).

³ With the approval of Pre-Trial Chamber I (“PTC I”), the Registry deployed, in addition to the individual application form, a “household” form for victims to apply for participation and reparations in the Case. The household form enables all victims within the same household who have suffered similar personal harm resulting from the charged crimes to jointly complete one form. See Transcript of hearing Initial Appearance, 3 December 2025, ICC-01/11-01/25- T- 001- ENG, p. 8, lines 21-22.

⁴ Transcript of hearing Initial Appearance, 3 December 2025, ICC-01/11-01/25- T- 001- ENG, p. 8, lines 17-20. See also ICC, “Chambers Practice Manual”, 21 October 2024, <https://www.icc-cpi.int/about/judicial-divisions/chambers-practice-manual>. Under the A-B-C Approach the Registry classifies the applicants into three categories: (i) applicants who clearly qualify as victims within the scope of a given case (‘Group A’), (ii) applicants who clearly do not qualify as victims within the scope

A applications, and three applications as Group B applications.⁵ No applications were transmitted as Group C.

4. On 11 May 2026, PTC I authorised 64 victims to participate in the proceedings.⁶
5. Thirty-five applications for participation were received by the Registry after the deadlines for transmission to PTC I and, therefore, have not been transmitted during the pre-trial stage of the proceedings.⁷
6. The Registry notes that the number of applications for participation and/or reparations received during the pre-trial stage is relatively limited when compared to the number of detainees in Mitiga prison who may fall within the scope of the confirmed charges,⁸ as well as to the number of victims who informed the VPRS, either directly or through VPRS interlocutors, of their wish to participate in the proceedings.⁹ The Registry understands this limited level of applications at the early stage of the proceedings to be attributable, *inter alia*, to (i) the security situation in Libya, which renders communication with the Court potentially high-risk for victims,¹⁰ (ii) the limited ability of the Registry and its interlocutors to conduct outreach activities on the ground; and (iii)[REDACTED].¹¹

of a given case ('Group B'); and (iii) applicants for whom the Registry could not make a clear determination for any reason ('Group C').

⁵ Registry, "Registry Transmission of Group A and B Applications for victims participation in pre-trial proceedings", 4 May 2026, ICC-01/11-01/25-110.

⁶ "Decision on Victim Participation", para. 8.

⁷ The deadline to file Group C applications was 18 April 2026 and the deadline to file Groups A and B was 4 May 2026.

⁸ See also *infra*, para. 11.

⁹ See *infra*, para. 13.

¹⁰ See also Registry, "Registry Report on Group A and B applications and update on the victims' legal representation", 4 May 2026, ICC-01/11-01/25-112-Conf, para. 17. A public redacted version was notified on 18 May 2026 ("Groups A and B Report").

¹¹ [REDACTED].

B. Scope of the Case

7. On 16 July 2026, the PTC confirmed all charges against Mr El Hishri (“Confirmation Decision”).¹²
8. In light of the Confirmation Decision, the Registry understands that the scope of the Case encompasses the crimes of:
 - a. imprisonment and other severe deprivation of physical liberty
 - b. torture and cruel treatment, outrages upon personal dignity and other inhuman acts;
 - c. rape, attempted rape and other forms of sexual violence;
 - d. murder and attempted murder;
 - e. enslavement; and
 - f. persecution on political, religious, gender, and national, ethnic and/or racial grounds;

allegedly committed between 1 May 2014 and 30 June 2020, principally at Mitiga prison and also in other locations in and around Tripoli.¹³
9. In line with the Chambers Practice Manual,¹⁴ and since all charges were confirmed, the Registry submits that the 64 victims authorised to participate in the proceedings by PTC I may continue to do so at the trial stage of the proceedings.
10. The Registry has continued to assess applications received after the transmission deadlines applicable to the confirmation of charges proceedings¹⁵ against the scope of the Case at trial, and stands ready to transmit periodically to the Chamber newly received applications, in accordance with the conduct of proceedings and directions to be established by the Chamber for the trial stage.

¹² Pre-Trial Chamber I, “Decision on the confirmation of the charges against Mr Khaled Mohamed Ali El Hishri”, 16 July 2026, ICC-01/11-01/25-143.

¹³ Confirmation Decision, p. 65 para. 25 and following.

¹⁴ Chambers Practice Manual, 21 October 2024, <https://www.icc-cpi.int/about/judicial-divisions/chambers-practice-manual>, para. 97 (ii).

¹⁵ See *supra*, fn 7.

C. Forecast on potential new applicants

11. In its Document Containing the Charges, the Office of the Prosecutor held that “the Mitiga Perpetrators violently arrested, detained and systematically mistreated at least 5,140 persons, principally at Mitiga Prison.”¹⁶ In the Confirmation Decision, the PTCI referred to “a very large number of persons” who were “violently arrested, detained arrested and systematically mistreated”, principally in Mitiga prison, within the period covered by the scope of the charges.¹⁷ Furthermore, according to a 2018 Report of the United Nations High Commissioner for Human Rights, “in May 2016 [...] there were 1,500 male and 200 female detainees in Mitiga, including children. [...] [A]t the end of November 2017, there were 2,600 detainees in Mitiga.”¹⁸
12. The Registry recalls that the security situation has thus far prevented the Victims Participation and Reparations Section from establishing a field presence in Libya.¹⁹ While this situation continues to prevail, the VPRS has maintained contact with victims through secure channels of communication. [REDACTED].²⁰
13. Thus far, the VPRS carried out its activities remotely and through a trusted network of CSOs [REDACTED]. These interlocutors have expressed their willingness to continue supporting victims who wish to seek participation and reparations before the Court, [REDACTED]. At the same time, these CSOs have informed the VPRS that [REDACTED]. The VPRS therefore continues to

¹⁶ Office of the Prosecutor, “Document Containing the Charges”, 26 March 2026, ICC-01/11-01/25-92, para 26.

¹⁷ Confirmation Decision, page 65, para. 26.

¹⁸ Office of the United Nations High Commissioner for Human Rights (OHCHR) and United Nations Support Mission in Libya (UNSMIL), “Abuse Behind Bars: Arbitrary and Unlawful Detention in Libya”, April 2018, page 18, https://www.ohchr.org/sites/default/files/Documents/Countries/LY/AbuseBehindBarsArbitraryUnlawful_EN.pdf

¹⁹ See Groups A and B Report, para. 15.

²⁰ [REDACTED]

provide trainings on victims' rights and ICC application procedures, while keeping interlocutors abreast of relevant judicial developments.

14. In light of the above, while the Registry expects that additional victims may seek to exercise their rights before the Court during the trial phase, it is currently not in a position to reliably estimate the number of additional applications for participation or reparations that may be received from victims falling within the scope of the Case. Subject to available resources, the Registry intends to further enhance its outreach activities in order to inform affected individuals and households of their rights before the Court and facilitate access to the application process. In this regard, the Registry has already deployed the Household Form for use by victims within the same household.²¹ The Registry further notes that interlocutors in the field have repeatedly emphasised the importance of allowing a sufficiently broad timeframe for victims to engage in the application process.
15. Lastly, the VPRS notes that not all victims falling inside the scope of the Case are in contact with CSOs or other actors on the ground who could assist them, owing to their heightened conditions of vulnerability. The VPRS considers it necessary to ensure that these victims are also identified, and supported in the exercise of their rights before the ICC. To achieve this, the VPRS is in consultation with the Public Information and Outreach Section to design targeted outreach activities for the victim communities related to the Case.

II. Other Registry observations related to victim participation at trial

16. The Registry makes the following observations and suggestions as they are closely related to the collection and submission to the Chamber of additional applications by victims to participate in the proceedings.

²¹ Transcript of hearing Initial Appearance, 3 December 2025, ICC-01/11-01/25-T-001-ENG, p. 8, lines 21- 22. *See also infra*, para. 19.

A. Languages used by victims

17. The victim applications and/or related supporting documents received by the VPRS during the pre-trial stage were completed predominantly in Arabic.²² The Registry's Language Support Section provided English translations before these applications could be fully assessed by the VPRS and transmitted to PTC I. This impacts the pace of the VPRS' legal processing and the timing of its transmissions, as may be ordered by the Chamber.

B. Victim admission process and deadline for submission of applications

Confirmation of the existing procedures

18. The Registry submits that the A-B-C Approach adopted during the pre-trial phase,²³ and currently applied in all other judicial proceedings before ICC Chambers,²⁴ remains an effective and efficient mechanism for the admission of victims to participate in the proceedings, and should therefore be maintained at the trial stage in this Case.
19. Furthermore, the Registry respectfully requests the Chamber's authorisation for the VPRS to continue the use of its household form in the Case,²⁵ alongside the standard application form for individual victims. The VPRS takes this opportunity to inform the Chamber that it is currently in the process of deploying an electronic version of these forms, designed to further streamline the application process.

²² Out of the 102 applications received, 66 were completed mainly in Arabic or had documents in Arabic that needed translation. The Registry notes that other applications received from victims who are not native Arabic or English speakers, were submitted in English.

²³ See *supra*, para. 3.

²⁴ See, for example, Trial Chamber III, *The Prosecutor v. Rodrigo Roa Duterte*, Transcript of hearing on 27 May 2026, ICC-01/21-01/25-T-009-Red-Eng, p. 38, lines 21-23; Trial Chamber I, *The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman*, "Decision on victims' participation and legal representation in trial proceedings", 19 October 2021, ICC-02/05-01/20-494, para. 15; and Trial Chamber V, *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, "Order Scheduling First Status Conference", 19 March 2020, ICC-01/14-01/18-459, para. 8 (iv).

²⁵ See Transcript of hearing Initial Appearance, 3 December 2025, ICC-01/11-01/25-T-001-ENG, p. 8, lines 21- 22.

20. Finally, as regards documentation that may be used as proof of identity and proof of kinship by victims applying for participation and reparations, the Registry recommends the Chamber to continue accepting the categories of documents previously implicitly approved by PTC I.²⁶

Deadline for submitting victim applications

21. According to the Chambers Practice Manual, “for purposes of participation during the trial, the Trial Chamber sets a final time limit, at the latest by the end of the Prosecutor’s presentation of evidence, for the transmission of any further application by victims.”²⁷ In view of the potentially large victim population falling within the scope of the Case, and taking into account the challenges outlined above,²⁸ the Registry recommends that the applications continue to be assessed and transmitted in batches, on a rolling basis, with a final cut-off date to be set by the Chamber no earlier than the end of the Prosecutor’s presentation of evidence.

22. As regards the transmission process, the Registry proposes to provide periodic updates regarding the number of applications received, the pace of assessment and the anticipated timing of future transmissions.

23. Additionally, the Registry submits that, following the expiry of the deadline for the transmission of participation applications, it should be authorised to continue collecting (without filing or transmitting) applications and related information from victims for the purposes of any future reparations proceedings, should there be a conviction.²⁹

²⁶ Following the Groups A and B Report, paras. 21-23, the Chamber issued its Decision on Victim Participation, granting victim status to applicants who provided these categories of documents.

²⁷ Chambers Practice Manual, 21 October 2024, <https://www.icc-cpi.int/about/judicial-divisions/chambers-practice-manual>, para. 97 (iii).

²⁸ See *supra*, paras. 12-15.

²⁹ See Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, “Decision on request for extension of deadlines for the final transmission of victim applications for participation

III. Updated report on the legal representation of victims

24. At the pre-trial stage of the Case, the VPRS carried out an extensive consultation with CSOs and legal representatives [REDACTED] and, whenever possible, directly with victims on the issue of the legal representation of victims in the Case.³⁰ In addition to the Office of Public Counsel for Victims (“OPCV”), four external legal representatives were chosen by victims to represent them in the proceedings.³¹
25. On 4 May 2026, the Registry informed PTC I that in light of the limited time remaining before the commencement of the confirmation of charges hearing, it was not in a position to recommend a team of external lawyers or a combined team of external lawyers and the OPCV following the procedure envisaged by the Chamber.³² Consequently, PTC I decided to maintain the assignment of the OPCV to represent victims for the purposes of the confirmation proceedings, and instructed the Registry to continue consulting with applicants, transmit updated report(s) when appropriate, and be ready to provide an updated report should any of the charges be confirmed.³³
26. Since the Confirmation Decision,³⁴ the Registry has launched the full sequence of procedural steps required under the applicable framework to make its recommendations to the Chamber. A selection panel has been constituted and is currently moving forward with the process. The Registry projects it will be

at trial”, 12 June 2020, ICC-01/12-01/18-880, para. 15. This is now also captured in para. 97(iii) of the Chambers Practice Manual.

³⁰ Groups A and B Report, para 15.

³¹ [REDACTED]

³² Annex III to the Registry Group A and B Report, ICC-01/11-01/25-112-Conf-Exp-Anx3, 4 May 2026, para 15. A public redacted version was notified on 18 May 2026. *See also* Pre-Trial Chamber I, “Decision on the legal representation of victims”, 12 March 2026, ICC-01/11-01/25-84, para. 15; and Registry, “Registry Report on the Common Legal Representation of Victims”, 25 February 2026, ICC-01/11-01/25-72-Conf-Exp-Anx1, para. 48. A public redacted version was notified on 25 June 2026.

³³ Decision on Victims’ Participation, para. 16 and page 8.

³⁴ The Registry deemed important to ensure that its recommendations on legal representation are aligned with the precise charges and groups of victims that would be authorized to participate at trial.

in a position to provide the Chamber with a detailed report of the result of the selection process, as well as the Registry recommendations on the legal representation of victims at trial, at the latest by 30 September 2026.