

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

**No.: ICC-01/11-01/25
Date: 27 October 2026**

TRIAL CHAMBER VII

**Before: Judge Althea Violet Alexis-Windsor, Presiding Judge
Judge Miatta Maria Samba
Judge Beti Hohler**

SITUATION IN LIBYA

**IN THE CASE OF
*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
Section

☐ Other

TRIAL CHAMBER VII (the ‘Chamber’) of the International Criminal Court (the ‘Court’), in the case of *The Prosecutor v. Khaled Mohamed Ali El Hishri*, having regard to Article 68(1) and (3) of the Rome Statute (the ‘Statute’), Rules 16 and 89 to 92 of the Rules of Procedure and Evidence (the ‘Rules’), Regulations 79 to 81 of the Rules of the Court, Regulations 112 and 113 of the Regulations of the Registry, and the Legal aid policy of the International Criminal Court,¹ issues this ‘Decision on Victims’ Participation and Legal Representation’.

I. Procedural history

1. On 3 December 2025, Pre-Trial Chamber I (‘PTC I’), *inter alia*, adopted a system to assess victims’ applications in line with the Chambers’ Practice Manual² (the ‘ABC Approach’), and instructed the Registry to file recommendations for the common legal representation of victims in the present case, by 17 December 2025.³
2. On 17 December 2025, the Registry submitted observations on the legal representation of victims, informing PTC I of its ongoing consultations with applicants, civil society organisations and lawyers who expressed an interest in representing victims.⁴
3. On 23 December 2025, PTC I appointed the Office of the Public Counsel for the Victims (the ‘OPCV’) to represent the collective interests of potential victims in the case until the mandate of the team of common legal representatives takes effect.⁵ PTC I also ordered the Registry to file a report on its ongoing consultations on legal representation by 25 February 2026.⁶

¹ [Legal aid policy of the International Criminal Court](#), ICC-ASP/22/9, 22 November 2023.

² See [Chambers’ Practice Manual](#), Eighth Edition, 2024, para. 96(iv) (hereinafter: ‘Chambers’ Practice Manual’).

³ Transcript of hearing Initial Appearance, [ICC-01/11-01/25-T-001-ENG](#), p. 8, lines 23-25.

⁴ [Registry submissions on the organization of legal representation of victims in the Case](#), ICC-01/11-01/25-43.

⁵ Order on the organisation of the legal representation of victims, ICC-01/11-01/25-47, paras 2-5 (hereinafter: ‘[First order on legal representation](#)’).

⁶ [First order on legal representation](#), para. 2.

4. On 25 February 2026, the Registry submitted its first report on the common legal representation of victims.⁷

5. On 12 March 2026, PTC I issued a decision on the legal representation of victims in which it, *inter alia*: (1) maintained the assignment of the OPCV; (2) postponed its decision on the appointment of a team of common legal representatives until its decision on the admission of participating victims; and (3) instructed the Registry to continue consulting with applicants and transmit update reports when appropriate.⁸

6. On 4 May 2026, the Registry filed its second report on legal representation, informing PTC I that it was not yet in a position to make any recommendation on the common legal representation of victims in the present case.⁹

7. On 11 May 2026, PTC I issued its ‘Decision on victims’ participation and legal representation’ (the ‘PTC Decision’),¹⁰ ordering the Registry to ‘continue consulting with applicants and to transmit updated report(s) [on the common legal representation of victims] when appropriate, and be ready to provide an updated report should any of the charges be confirmed’.¹¹

8. On 16 July 2026, PTC I confirmed all charges against Mr El Hishri and committed him to trial.¹²

⁷ [Annex I to the Registry Report on the Common Legal Representation of Victims](#), 25 February 2026, ICC-01/11-01/25-72-Conf-Exp-Anx1. A public redacted version was notified on 25 June 2026, ICC-01/11-01/25-72-Anx1-Red.

⁸ [Decision on the legal representation of victims](#), ICC-01/11-01/25-84, paras 13, 15 and p. 7.

⁹ [Annex 3 to the Registry Report on Group A and B applications and update on the victims’ legal representation](#), ICC-01/11-01/25-112-Conf-Exp-Anx3, para 15. A public redacted version was notified on 18 May 2026, ICC-01/11-01/25-112-Anx3-Red.

¹⁰ [Decision on victims’ participation and legal representation](#), ICC-01/11-01/25-117 (hereinafter: ‘PTC Decision’).

¹¹ [PTC Decision](#), fn. 1.

¹² [Decision on confirmation of the charges against Mr Khaled Mohamed Ali El Hishri](#), ICC-01/11-01/25-143.

9. On 30 September 2026, the Registry filed its third report on the common legal representation of victims (the ‘Registry’s third report on legal representation’).¹³

II. Analysis

A. Legal representation

10. The Chamber notes that, considering that all the charges against the Accused were confirmed, all victims authorised to participate in the proceedings by PTC I continue to do so before the present Chamber.¹⁴ The Chamber further notes that no conflict of interest between participating victims or applicants has been identified.¹⁵ As such, the Chamber finds that the appointment of one team of legal representatives will ensure the effectiveness of the proceedings.¹⁶

11. The Chamber notes that, although victims have expressed different preferences in terms of their legal representation, PTC I decided that all 64 victims were to be represented by the OPCV during confirmation proceedings.¹⁷ Similarly, the 43 new applications for participation received to date by the Registry indicate different choices for legal representation.¹⁸

12. The Chamber notes that, in principle, victims ‘shall be free to choose a legal representative’.¹⁹ However, the Chamber is mindful that a balance must be struck between the victims’ wishes, the Court’s available resources and the Chamber’s obligation to ensure efficient and expeditious proceedings. The decision to appoint a common legal representative considers the need to have the victims’ views presented

¹³ Registry Update Report on the Common Legal Representation of Victims, ICC-01/11-01/25-200, with confidential *ex parte* Annexes I and II. See also Annex II to the Registry Submissions pursuant to the First Status Conference ICC-01/11-01/25-157, 25 August 2026, ICC-01/11-01/25-171-Conf-Exp-AnxII, para. 26 (a public redacted version was notified on the same day, ICC-01/11-01/25-171-AnxII-Red) (hereinafter: ‘[Annex II to the Registry Submissions pursuant to the First Status Conference ICC-01/11-01/25-157](#)’); [Order Scheduling the First Status Conference](#), 27 July 2026 (notified on 28 July 2026), ICC-01/11-01/25-157.

¹⁴ [Chambers’ Practice Manual](#), para. 97(ii).

¹⁵ Annex I to the Registry’s third report on legal representation, ICC-01/11-01/25-200-Conf-Exp-AnxI, para. 7 (hereinafter: ‘Annex I to the Registry’s third report on legal representation’).

¹⁶ 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. 6 (hereinafter: ‘[Abd-Al-Rahman Decision on victims’ participation](#)’).

¹⁷ [PTC Decision](#), para. 16.

¹⁸ [Annex II to the Registry Submissions pursuant to the First Status Conference ICC-01/11-01/25-157](#), para. 4.

¹⁹ Rule 90(1) of the Rules.

as a whole during the trial proceedings. Further, the appointment of a single team will ensure that the views and concerns of the victims will avoid repetitive submissions, which could impact the efficiency of the trial.²⁰

13. Although the Chamber acknowledges that more applicants will likely apply to participate in the proceedings, its decision considers the views of those victims who have already submitted an application form. In this regard, the Chamber notes that the overwhelming majority of these applicants wish to be represented by the OPCV; Ms Chantal Meloni and/or Ms Jeanne Sulzer.²¹ Moreover, the Chamber notes that Ms Meloni and Ms Sulzer have constructively cooperated with the OPCV in the past and have indicated a willingness to continue to do so.²²

14. The Chamber further notes that Ms Meloni and Ms Sulzer ‘enjoy the support of the civil society organisations that work with victims and continue to assist them in applying for participation in the proceedings.’²³ The Chamber finds that this will ensure continuity in the contact with (potential) victims, which is of particular importance considering the precarious security situation in Libya at present.

15. Consequently, and taking into account the Registry’s recommendations,²⁴ the Chamber appoints Ms Meloni, Ms Sulzer and counsel from the OPCV as a joint team of common legal representatives for victims (the ‘CLRVs’) to represent victims admitted to participate in these proceedings.

16. The Chamber acknowledges that the above decision conflicts with the choice of counsel made by two victims who had designated two other counsel.²⁵ However, on the basis of the information before it, the Chamber has found no indication that the CLRVs would be prevented from adequately representing the interests of these two victims. As such, the Chamber finds the benefits of having a single team of legal

²⁰ [Abd-Al-Rahman Decision on victims’ participation](#), para. 7.

²¹ Annex I to the Registry’s third report on legal representation, paras 2 and 4.

²² Annex I to the Registry’s third report on legal representation, para. 6.

²³ Annex I to the Registry’s third report on legal representation, para. 30.

²⁴ Annex I to the Registry’s third report on legal representation, para. 33.

²⁵ Annex I to the Registry’s third report on legal representation, para 17(b)(i).

representatives to be decisive for the efficient and adequate representation of the interests of all victims in the present case.

17. The Registry's Victims Participation and Reparations Section (the 'VPRS'), in consultation with the CLRVs and other external counsel as appropriate, is instructed to inform all victims about the appointment of the CLRVs and facilitate their communication with the victims. The Registry is further instructed to inform the two other persons who are not retained as external counsel of the present decision.²⁶

18. Pursuant to Rule 121(10) of the Rules, the Chamber:

(i) grants the CLRVs access to the record of the proceedings containing all filings, decisions, transcripts of hearing and items of evidence disclosed or made available, with the exception of those classified as *ex parte*, only available to or held in the presence of the Prosecution, the Defence, another participant and/or the Registry; and

(ii) instructs the Registry to notify the CLRVs of all public and confidential documents, decisions, and transcripts contained in the record, with the exception of those classified as *ex parte*, only available to or held in the presence of the Prosecution, the Defence, another participant and/or the Registry.

19. Access hereby granted is limited to the CLRVs and, accordingly, confidential information shall not be shared with (potential) victims without the Chamber's prior authorisation.²⁷

20. The Chamber instructs the Registry, in the context of its biannual reports on the political and security situation in Libya,²⁸ to provide updates regarding Registry and/or CLRV activities related to access to victims in the field, information and communication or bring to the Chamber's attention any other incident or related

²⁶ Annex I to the Registry's third report on legal representation, para. 17(b)(i).

²⁷ [First order on legal representation](#), para. 6. See also Trial Chamber V, *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*, [Decision on victims' representation and participation](#), 9 October 2012, ICC-01/09-01/11-460, para. 69.

²⁸ See Transcript of hearing, First Status Conference, [ICC-01/11-01/25-T-007-ENG](#), p. 3, lines 14-18; Email from the Chamber, 4 September 2026, at 16:56.

concerns.²⁹ The Registry is instructed to liaise with the CLRVs to collect the aforementioned information.

B. Admission of victims to participate in the proceedings

21. In respect of the procedure for the admission of victims to participate in the proceedings, consistent with the established practice of the Court, the Chamber concludes that there is no reason to depart from the procedural scheme established during the confirmation of charges proceedings.³⁰ The Registry is instructed to assess any new applications received to date and any future applications from victims requesting to participate in the proceedings. It shall thereafter group and transmit applications, as appropriate, pursuant to the ABC Approach.³¹

C. Deadline for the submission of victim's application forms for participation

22. In respect of the deadline for the submission of victims' applications for participation, the Chamber decides that any victim that wishes to participate in the present case must submit an application by the end of the Defence's presentation of evidence.

23. Furthermore, after the abovementioned deadline, the Registry shall continue to collect applications and/or relevant information from victims for purposes of potential reparations proceedings only.³²

D. Mapping of potential beneficiaries of reparations

24. The Chamber is mindful of the particularly difficult security situation across Libya at present, as well as the 'victims' mistrust or hesitation in engaging with the Court.'³³ Consequently, the number of applications for participation and/or

²⁹ Annex I to the Registry's third report on legal representation, para. 35.

³⁰ This includes the use of individual and household forms, as well as proof of kinship, see Transcript of hearing Initial Appearance, [ICC-01/11-01/25-T-001-ENG](#), p. 8, lines 17-22 and [Annex II to the Registry Submissions pursuant to the First Status Conference ICC-01/11-01/25-157](#), paras 19-20.

³¹ Transcript of hearing Initial Appearance, [ICC-01/11-01/25-T-001-ENG](#), p. 8, lines 17-20.

³² [Chambers' Practice Manual](#), para. 97(iii). See also Transcript of hearing, First Status Conference, [ICC-01/11-01/25-T-007-ENG](#), p. 30, lines 14-19.

³³ [Annex II to the Registry Submissions pursuant to the First Status Conference ICC-01/11-01/25-157](#), para. 6.

reparations received so far³⁴ has been relatively low compared to the number of potential victims estimated by the Prosecution.³⁵

25. Bearing in mind these difficulties, and considering that many victims may be difficult to locate, the Chamber finds it appropriate to order the Registry to carry out a mapping of potentially eligible beneficiaries of reparations in the present case.³⁶

26. In the context of the mapping of potentially eligible beneficiaries of reparations, victims do not need to participate in the trial proceedings to be considered potential beneficiaries of reparations. Only direct and indirect victims may be considered potential beneficiaries. The VPRS should endeavour to have fully identified, mapped, or at least traced the relevant potential victim population by the time the parties have concluded their closing statements. To that end, and alongside its efforts with respect to the participation of victims at trial, the VPRS is authorised to take all necessary proactive measures to identify potential beneficiaries of reparations during the trial proceedings. At all times, the VPRS should ensure that it does not unduly raise the victims' expectations, adopts a victim-centred approach and complies with the 'do no harm' and other applicable principles.

27. Should the Chamber enter a conviction, the VPRS is instructed to submit a report of its mapping of the population of potential beneficiaries of reparations within three months of the notification of the Article 74 judgment. This report should provide the following information for each count for which a conviction is entered: (i) the approximate number of direct and indirect victims that may qualify as potential beneficiaries; and (ii) if available, the different types of harm the potential beneficiaries allege to have suffered.

28. The Chamber stresses that the above mapping mechanism does not affect the fact that the Accused benefits from the presumption of innocence until proven guilty

³⁴ [Annex II to the Registry Submissions pursuant to the First Status Conference ICC-01/11-01/25-157](#), para. 2; Annex I to the Registry's third report on legal representation, paras 2 and 4.

³⁵ [Document Containing the Charges](#), 26 March 2026, ICC-01/11-01/25-92, para 26. *See also* [Annex II to the Registry Submissions pursuant to the First Status Conference ICC-01/11-01/25-157](#), para. 11.

³⁶ Trial Chamber VI, *The Prosecutor v. Mahamat Said Abdel Kani*, [Decision on matters relating to the participation of victims during the trial](#), ICC-01/14-01/21-278, paras 86-90; Trial Chamber I, *The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman*, [Second decision on the admission of victims to participate in trial proceedings](#), 3 October 2022, ICC-02/05-01/20-761, paras 13-20.

beyond reasonable doubt. Indeed, Mr El Hishri can only be found liable for reparations if he is convicted pursuant to Article 75(2) of the Rome Statute.

FOR THESE REASONS, THE CHAMBER HEREBY

RECOGNISES as participating victims the 64 victims who participated in the confirmation of charges proceedings;

APPOINTS Ms Meloni, Ms Sulzer and counsel from the OPCV as a single team representing the 64 participating victims;

INSTRUCTS the Registry, in consultation with the CLRVs, to inform all 64 victims about the appointment of the CLRVs and to facilitate their communication with the victims;

INSTRUCTS the Registry to transmit, in accordance with the ABC Approach, all applications received so far to the CLRVs and thereafter on an rolling basis;

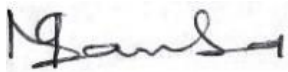
INSTRUCTS the Registry to assess and transmit, pursuant to the ABC Approach, any new applications received for the purpose of participation;

INSTRUCTS the Registry to start mapping potentially eligible beneficiaries of reparations in line with the instructions at paragraphs 24-28 above;

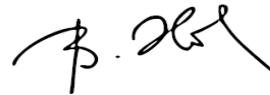
ORDERS the Registry to file a public redacted version of Annex I and, in consultation with the relevant third parties, Annex II.



Judge Althea Violet Alexis-Windsor
Presiding Judge



Judge Miatta Maria Samba



Judge Beti Hohler

Done in both English and French, the English version being authoritative.

Dated 27 October 2026

At The Hague, The Netherlands