

HOW CAN VICTIMS IN LIBYA BE HEARD BEFORE THE INTERNATIONAL CRIMINAL COURT?

Guide for Survivors and Affected Communities to Understand the
ICC Proceedings and their Rights before the ICC

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Ending torture, seeking justice for survivors



Lawyers
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I. UNDERSTANDING THE ROLE OF THE ICC IN LIBYA



©ICC-CPI. Khaled Mohamed Ali El Hishri, accused of crimes against humanity and war crimes in Libya, makes his first appearance before Pre-Trial Chamber 1 of the International Criminal Court on 3 December 2025.

1 What is the International Criminal Court?

The International Criminal Court (ICC) is an independent international court that investigates, prosecutes, and tries individuals accused of international crimes (war crimes, crimes against humanity, genocide, and the crime of aggression). The treaty (legal agreement between countries) creating the International Criminal Court – the *Rome Statute* – contains definitions of these crimes:

- **War crimes** are grave violations of the Geneva Conventions in the context of armed conflict. They include, for example, the use of child soldiers; the killing or torture of civilians or prisoners of war; intentionally directing attacks against hospitals, historic monuments, or other protected objects.
- **Crimes against humanity** are serious violations committed as part of a large-scale attack against any civilian population. They can include acts such as murder, rape, imprisonment, enforced disappearance, enslavement, sexual slavery, torture, apartheid, and deportation.
- **Genocide** is characterised by any of the following acts committed with the specific intent to destroy in whole or in part a national, ethnic, racial or religious group: killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life intended to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; or forcibly transferring children of the group to another group.
- **The crime of aggression** is the use of armed force by a State against the sovereignty, integrity or independence of another State.

As of April 2026, 125 countries are members of the ICC (“Member States” or “States Parties”). These countries have signed and ratified or acceded to the Rome Statute and agreed that the ICC can try international crimes that either happened on their territory or were committed by their nationals. The Court’s power to deal with a particular case is referred to as its “jurisdiction.”

On 2 June 2025, Hungary notified the UN Secretary General of their withdrawal from the Rome Statute. This will take effect on 2 June 2026. In addition, Burkina Faso, Niger, Mali, and Venezuela publicly announced their intention to withdraw from the Rome Statute but have not yet formally initiated their withdrawal processes.

Libya and ICC membership

Libya is not a State Party to the Rome Statute. Since 2011, the ICC has had jurisdiction over international crimes committed in Libya by virtue of United Nations Security Council (UNSC) Resolution 1970 (2011) of 26 February 2011, through which the UNSC referred ‘the Libya situation’ to the ICC (in accordance with Article 13 (b) of the Rome Statute). On 12 May 2025, the Libyan authorities submitted a declaration under Article 12 (3) of the Rome Statute and accepted the ICC jurisdiction for alleged crimes committed in the country from 2011 until the end of 2027.

2 What are the roles of different organs of the ICC?

The ICC is composed of four organs: the Presidency, the Office of the Prosecutor, the Chambers, and the Registry. These four organs of the Court have different responsibilities. In addition, although they are not organs within the Court, the counsel for defence and the counsel for victims play an essential role in the Court’s work.

The **Presidency** is responsible for the administration of the Court, including the administration of the Chambers and the Registry. It is composed of three judges: one President and two Vice-Presidents. The Presidency represents the Court in its communications with the rest of the world. The Presidency is also responsible for tasks such as ensuring the enforcement of the Court’s sentences.

The **Office of the Prosecutor** is responsible for receiving and investigating information related to alleged crimes within the ICC’s jurisdiction, as well as acting as prosecution in the proceedings. A matter may be referred by a State or the United Nations Security Council, and information can also be submitted to the Office by individuals, non-governmental organisations and other entities. Even though the Office of the Prosecutor is part of the Court, it investigates and prosecutes independently. It is not subject to control by States, and the ICC judges cannot interfere in the substance of the investigations, only limited procedural issues as described later.

The **Chambers** of the Court consists of 18 judges, organised in three separate divisions. The Pre-Trial Division is responsible for the early stage of proceedings. This includes resolving any issues arising in relation to investigations carried out by the Office of the Prosecutor and deciding whether to issue arrest warrants requested by the Office of the Prosecutor.

When a suspect surrenders to the ICC or is arrested and brought before it, a panel of three judges (a “Chamber”) of the **Pre-Trial Division** oversees the first stages of proceedings, including an initial appearance and hearings to

determine whether there is enough evidence for the case to go to trial (the “confirmation of charges” process). In all of these early proceedings, the Pre-Trial Chamber is responsible for ensuring the rights of suspects and victims.

If a Pre-trial Chamber confirms all or some of the charges, the next stage of proceedings is overseen by the **Trial Division**. The Trial Division is responsible for overseeing the trial and ensuring that it is conducted fairly, and efficiently, with respect for the rights of accused persons, and with due protection of victims and witnesses. Three judges (a “Trial Chamber”) of the Trial Division will conduct a trial to determine whether an accused person can be found guilty of any or all charges. If an accused is found guilty of any charge, the Trial Chamber will impose a sentence and can also order reparations for victims of those crimes.

The third division of Chambers is the **Appeals Division**. The Office of the Prosecutor, a suspect or accused persons, and in some cases victims, can appeal decisions made by the Pre-Trial or Trial Chambers to the Appeals Chamber, which is made up of all five judges assigned to the Appeals Division. This right to appeal is, however, limited to decisions of high importance that are decisive of a case, such as decisions of Trial Chambers of conviction and/or acquittal of suspects. On the other hand, most decisions of lower importance that are not ultimately decisive of a case can only be appealed if the Chamber that issued them gives permission.

The Appeals Chamber hears these appeals and decides whether to confirm (uphold), revise, or reverse the decisions. A decision becomes final if the Appeals Chamber upholds a decision issued by the Pre-Trial or Trial Chambers, or if no party appeals it.

The **Registry** is an organ of the Court that provides services to all the other organs so the ICC can function and conduct fair and effective public proceedings. It provides support to all parties to the proceedings, including the Office of the Prosecutor, the Defence, and the legal representatives of the victims, as well as to the Trust Fund for Victims (TFV), the Chambers, and The Assembly of States Parties. The Registry ensures that the ICC has efficient mechanisms for assisting, protecting, and representing victims and witnesses. The Registry is also in charge of external affairs, including external relations and public information and outreach. It deals with the management of the Court, including security, budget, finance, and human resources. The Registry also manages the detention of defendants if they are detained during the ICC proceedings.

The **Victims Participation and Reparations Sections (VPRS)** is part of the Registry and provides information to victims regarding their right to participate in proceedings, their right to obtain reparations in case of a conviction, their right to legal representation and their right to be protected. It ensures that victims are able to submit their applications for participation in proceedings or for reparations to the Court. It also assists with assigning lawyers to provide legal advice and representation. The VPRS protects victims by redacting (anonymising) their application forms, if those forms must be transmitted to the parties in case proceedings.

The **Victims and Witnesses Unit (VWU)** - another unit that is part of the Registry - provides assistance and protection to witnesses, as well as to their families, and advises on the protection of victims who participate in proceedings.

Another office of the ICC is the **Office of Public Counsel for the Defence (OPCD)**. OPCD plays an important role in safeguarding the rights of the defence: it provides support and legal assistance to defence counsel and individuals entitled to legal aid, in particular to suspects. This includes offering legal advice and appearing before the judges in relation to specific issues.

The OPCD is not a public defender's office. While the OPCD may be appointed by the judges to act as *ad hoc* counsel, the individuals charged with crimes before the ICC are free to choose their own counsel. The OPCD does not interfere with the strategy of the defence teams but rather provides them with targeted support.

Finally, the **Office of Public Counsel for Victims (OPCV)** supports and assists the legal representatives of victims and can be appointed to represent victims in proceedings (see [later section](#)).

3 What are the phases of ICC proceedings, and where is Libya at?

Preliminary examination

First, the Office of the Prosecutor conducts a preliminary examination into a situation to determine whether or not an investigation should be opened. A preliminary examination is initiated on the basis of:

- information sent to the Office of the Prosecutor of the ICC by non-governmental organisations, individuals, or other groups;
- a referral by the United Nations Security Council or a State Party; or
- after a declaration by a State that is not a member of the Court, accepting the jurisdiction of the Court.

A situation refers to a set of events or incidents occurring at a specified period, in a particular geographic location and involving multiple actors. A situation may turn into a case once the ICC's investigation identifies suspects who are then charged. Because a situation is broader than a case, not all victims in a situation may be considered victims in a case. Since its creation in 2002, the ICC has investigated 17 situations (12 of which are still ongoing, and five of which have been concluded) and tried 33 cases. The judges have issued 13 convictions and four acquittals.

During a preliminary examination, the ICC Prosecutor evaluates whether the Court has jurisdiction over the crimes alleged in a situation, taking into consideration the time and place where the alleged crimes occurred. The Prosecutor then decides whether opening an investigation would be in the interests of justice (e.g., providing accountability for serious crimes committed). Depending on the Prosecutor's assessment, they may proceed with opening the investigation, decide to not initiate an investigation, or continue to collect information.

When the preliminary examination is launched after a referral by a non-State Party or on the basis of information submitted by civil society groups or individuals, the Prosecutor must seek authorisation from ICC judges to open an investigation. At this stage, a State may also make a deferral request by asking the Office of the Prosecutor to defer the investigation of specific events to the domestic authorities.

Investigation

The authorisation to open an investigation is not needed if the situation has been referred by an ICC Member State or by the United Nations Security Council (UNSC). In such cases, the ICC Prosecutor can begin an investigation directly.

The Libya Situation (as of April 2026)

On 26 February 2011, through the [Resolution 1970 \(2011\)](#), the UNSC decided “to refer the situation in the Libyan Arab Jamahiriya since 15 February 2011 to the Prosecutor of the International Criminal Court.” Libya is not a State Party to the Rome Statute, however, acting under Chapter VIII of the UN Charter and in accordance with Article 13 (b) of the Rome Statute, the ICC can exercise its jurisdiction if the UNSC asks the ICC Prosecutor to open an investigation into a specific situation.

Based on this referral, **in March 2011 the Prosecutor opened the investigation in the Libya situation.**

Since March 2011, the Office of the Prosecutor has investigated war crimes and crimes against humanity occurring in Libya, including by conducting visits to Libya and establishing and establishing ‘the Libya Unified Team’, which work on the investigative activities into the Libya situation.

In accordance with the request of Resolution 1970 (2011), since 2011, the Prosecutor has briefed the UNSC every six months on the development of the Office of the Prosecutor’s investigations. In 2022, during the first briefing of the year to the UNSC, the Prosecutor announced a renewed strategy for the investigation in Libya and identified four lines of inquiry as the main focus:

1. **Violence committed in 2011** against demonstrators and opponents of the former Gaddafi regime, including crimes committed in detention;
2. **Crimes committed during the 2014-2020 operations**, in particular crimes allegedly committed by groups associated with the Libyan Arab Armed Forces, including extrajudicial killings, abductions, desecration of bodies, enforced disappearances, hostage taking, sexual violence, pillaging, indiscriminate airstrikes, the use of mines, human rights violations during military trials against civilians, and the destruction of property;
3. **Crimes committed in detention facilities**, concerning large-scale crimes in official and unofficial detention facilities in Libya, including unlawful detention, murder, torture, inhumane treatment, rape, and other forms of sexual and gender-based crimes; and
4. **Crimes against migrants and refugees**, concerning crimes of arbitrary detention, unlawful killing, enforced disappearance, torture, sexual and gender-based violence, abduction for ransom, extortion, and forced labour that may amount to crimes against humanity and war crimes.

The Office of the Prosecutor’s Libya Unified Team has worked towards gathering information on alleged serious international crimes committed in Libya and falling within these four lines of inquiry.

There was limited cooperation from the Libyan authorities. However, on 12 May 2025, the Registry of the ICC received a declaration from the Libyan authorities through which they accepted the jurisdiction of the Court for serious international crimes committed in Libya between 2011 until the end of 2027. Following the declaration, and the arrest of ICC suspect Khaled El Hishri by German authorities in July 2025, the Deputy Prosecutor announced that **the Office of the Prosecutor will continue investigations in the Libya situation to effectively implement the 2022 Strategy.** This marked a shift by the Office of the Prosecutor away from its earlier position, which had set the [completion](#) of investigations in the Libya situation for the first quarter of 2026.

On 3 December 2025, Mr El Hishri appeared before the Pre-Trial Chamber I for the first time. The judges confirmed his identity and ensured that he was informed of the crimes he is alleged to have committed and of his rights before the Court. His confirmation of charges hearing began on 19 May 2026.

During the investigation phase, the Office of the Prosecutor gathers evidence to determine which crimes were committed, and which individuals are responsible for the commission of those crimes. For example, the Office of the Prosecutor may conduct trips to the territory where the crimes occurred and other locations to find and speak to witnesses, access the locations of the crimes, and obtain documents or other types of evidence. The Prosecutor will gather all available evidence, whether it proves the innocence or guilt of suspected individuals. The ICC depends on the cooperation of States (and other entities when relevant) to conduct these investigations.

If after conducting an investigation, or in the course of an investigation, the Prosecutor finds that sufficient evidence is collected to initiate a case against one or more individuals suspected of crimes, they will request that the judges of the Pre-Trial Chamber issue arrest warrants or summonses to appear for the suspects identified. In making these requests, the Prosecutor tries to convince the judges and presents proof, arguing that there are reasonable grounds to believe that the persons have committed a crime within the jurisdiction of the Court.

In specific cases, such as the death of a suspect, the Prosecutor can request the withdrawal of pending arrest warrants. The Pre-Trial Chamber accepts the requests after assessing the relevant documents supporting the Prosecutor's request.

Arrest Warrants in the Libya situation

In the Libya situation, the Pre-Trial Chamber has issued a total of 15 public arrest warrants (see [section on arrest warrants](#) for more information). More non-public (sealed) arrest warrants may have been issued, and more may still be issued in the future, and up until the end of the investigation.

Four arrest warrants have been withdrawn following the death of the suspects, and one arrest warrant has been withdrawn due to the inadmissibility of the case. Out of the 15 public arrests warrants, ten remain outstanding, meaning that the suspects have not been arrested.

Challenging the admissibility of a case

When arrest warrants are outstanding, and the suspect has not been arrested nor surrendered to the Court to face trial, the concerned State has the possibility to challenge the admissibility of pending arrest warrants.

Under Article 17(1)(a) of the Rome Statute, a case before the ICC may be considered inadmissible if a State with jurisdiction over the alleged crimes is already genuinely investigating or prosecuting the same crimes, unless that State is unwilling or unable to do so.

When assessing the admissibility challenge of a case, the Court analyses whether i) at the time of filing the admissibility challenge, the concerned State is conducting an investigation or a prosecution at national level; and, if so, ii) the State is unwilling or unable to conduct genuine investigations.

Inadmissibility of the case against Abdullah Al-Senussi

In the Al-Senussi case, the State of Libya challenged the admissibility of the case, and the Court was called to assess the previously-mentioned criteria. The Chamber was persuaded that Libya was “taking concrete and progressive steps directed at ascertaining the criminal responsibility of Mr Al-Senussi for *substantially the same conduct* as alleged in the proceedings before the Court”. Based on the evidence and materials provided by the Libyan authorities in the case, the Chamber also considered that Libya was not shielding Al-Senussi from justice and was therefore neither unwilling nor unable to genuinely carry out the proceedings against Al-Senussi withing the meaning of Article 17(1)(a), (2), and (3). The Chamber therefore declared the case before the Court and against Al-Senussi as inadmissible.

Completion of the investigation

In accordance with the Office of the Prosecutor’s Policy on Situation Completion, when the Prosecutor assesses that his office has sufficiently investigated the open line(s) of inquiry and collected enough evidence, he can decide to complete the investigations to move towards the prosecutorial phase of the procedure before the Court.

The completion of the investigations means that the Office of the Prosecutor will not be able to collect any more pieces of evidence and information on the country situation, nor will the Prosecutor be able to request the issuance of further arrest warrants.

Completion of the investigation in the Libya situation

In November 2023, during his bi-yearly briefing to the UNSC, the Prosecutor announced his intention to complete the investigative activities in the Libya situation by the end of 2025. In May 2024, the Prosecutor presented to the UNSC a ‘Roadmap for Completion’, and set benchmarks to meet before the successful completion of the investigative activities, namely: i) cooperation with the Libyan authorities; ii) further issuance of arrest warrants in the four lines of inquiry; and iii) beginning of a trial before the Court prior to the end of 2025. Libyan and international civil society organisations (CSOs) raised several concerns on such decision.

In January 2025, Mr Osama Almasri/Elmasri Njeem, against whom there is an active ICC arrest warrant, was arrested in Italy and subsequently released by the Italian authorities to return back to Libya. This highlighted the serious repercussions of lack of cooperation of States with the Court, and particularly in the Libya situation, lack of cooperation from both the Libyan and Italian authorities (please see later section on cooperation and Mr Njeem’s arrest in Italy).

In May 2025, the Prosecutor announced in his statement to the UNSC that the investigations in the Libya situation will continue until the first quarter of 2026.

Thereafter, in July 2025, another suspect in the Libya situation, Mr Khaled Mohamed El Hishri, was arrested in Germany after the unsealing of the relevant ICC arrest warrant. He was subsequently transferred to The Hague by the German authorities. This development in the situation in Libya represented a positive step in the fulfilment of the benchmarks set out within the Office of the Prosecutor’s ‘Roadmap for Completion’, and it prompted the OTP to reconsider their initial May 2025 deadline for completion of the investigation in the Libya situation. Indeed, in the following briefing to the UNSC in November 2025, the Deputy Prosecutor provided that **the investigation will continue beyond May 2026, thereby removing the previously determined time limit.**

If the suspect surrenders himself, or is arrested and surrendered to the Court, the case will go into the Pre-Trial stage. The case against Mr El Hishri is officially at the pre-trial stage.

Initial appearance and confirmation of charges

The first part of the Pre-Trial stage is known as the “first” or “**initial appearance**” of the suspect. The suspect will appear in court before the three judges of the Pre-Trial Chamber. At this hearing, the suspect’s identity will be confirmed, and the charges will be read to ensure that the suspect understands them.

Next, the Court will schedule a “**confirmation of charges**” hearing to decide whether there is enough evidence for the case to go to trial. This process can take around a year because it needs a lot of preparation, including prosecution disclosure of evidence to the defence, time for the defence to prepare, and time to allow the victims to apply to participate and to arrange their legal representation.

Once the Judges confirm charges, the charges form part of a *case* before the Court. The difference between the *situation* and the *case* is that the situation refers to all crimes committed within a determined period on a certain territory, while a case relates more narrowly to specific crimes alleged to have been committed by a particular individual in a particular location at a particular time. Within a situation, there will generally be many crimes that could constitute the basis of a case, but in practice, the Office of the Prosecutor usually only initiates cases in respect of a small number of these (in more detail see sub-section 5).

If the Judges do not confirm the charges, the proceedings end and do not proceed to trial.

Trial stage

If one or more charges are confirmed, the case will move on to the **Trial stage**. This stage includes preparation for trial, the trial itself, and a period of deliberation by the judges during which a judgment is written. At trial, the prosecution and the defence have the opportunity to present their case. The Office of the Prosecutor must present evidence to the Court to prove that the accused person is guilty beyond reasonable doubt. Once the Prosecutor has presented all their evidence (documents, witnesses, etc.), it is the turn of the accused with the assistance of his/her lawyers to present their defence. At the end of the trial, the judges will determine if the accused is guilty beyond reasonable doubt of the crimes he or she has been charged with. If found guilty, the accused will be sentenced.

The judges may impose a prison sentence. The maximum sentence is 30 years, or in case of extreme gravity a term of life imprisonment. The Court may also order that reparations be provided to victims, such as rehabilitation, compensation, and other forms of reparations as appropriate. If so, the judges will issue a reparations order, in which they will decide what reparations victims are entitled to, and how the reparations order should be implemented.

ICC proceedings take a long time to reach a judgement on the guilt or innocence of an accused. Before the trial can start, it is necessary for the defence to receive the Prosecution’s evidence, which is often voluminous, and have enough time to assess it, carry out defence investigations, and prepare the defence case. Trials themselves can also last for many months or sometimes more than a year, as numerous witnesses are usually heard. For instance, in the context of the investigation relating to crimes committed in 2003 in the Democratic Republic

Congo, an arrest warrant was issued in 2007. The suspect was convicted in 2014; reparations measures were ordered in 2015, and their implementation was completed in 2024. When the Court faces challenges in securing the arrest of an accused, or there is a lack of cooperation from the State where the crimes took place, this process may take even longer.

Appeal

The trial may move on to an **Appeal stage**. The Prosecutor and the Defence (lawyer or lawyers representing the accused) have the right to appeal the trial judgement and/or the sentence, challenging the strength or validity of the Trial Chamber's judgment. This means that they can ask a higher Court Chamber – the Appeals Chamber – to reverse the decision issued by the judges of the Trial Chamber. The reasons (grounds) for appeal can include errors in procedure, mistakes relating to facts of the case (error of fact), incorrect application or interpretation of the law (error of law), or other grounds that affected the fairness of the proceedings, including the disproportionality of the sentence in light of the crimes committed. The Appeals Chamber may also order a new trial before another Trial Chamber.

Victims cannot appeal against judgements issued by the Trial Chamber regarding the guilt (or otherwise) of the accused, or regarding the sentencing. They have the right to appeal reparations orders. The reparations orders can also be appealed by the person convicted or the owner of the property affected by the order.

If the verdict is confirmed on appeal, the conviction becomes final.

Reparations

Following the trial judgment, the Chamber usually issues a **reparations order** against the convicted person. A reparations order is a formal decision by the Court by which it directly orders the convicted person to pay compensation to victims for the harm suffered as a result of the crimes the person has been convicted of. Apart from compensation, the reparations order usually also orders other types of reparations, such as rehabilitation programmes or formal apologies. More information about reparations, and the role of victims in that process, can be found in [Section III](#).

4 What crimes is the ICC investigating in Libya and how does it cooperate with the government of Libya and other countries?

The “principle of complementarity” means that the ICC is intended to complement, not to replace, national criminal justice systems. The ICC can only prosecute a case when States are unwilling or unable to do so genuinely. Thus, the ICC will not prosecute a case that is already being prosecuted at a national level, unless the judges agree that the national proceedings are meant to shield the perpetrators of crimes within the ICC jurisdiction from accountability.

In practice, this means that the majority of cases will be prosecuted at a national level. The ICC will in principle pursue charges against only a small number of high-ranking individuals.

Complementarity between domestic efforts and the ICC in the Libya situation

Since the opening of the situation in Libya, only limited domestic investigations have taken place for serious international crimes committed there since 2011. There are grave concerns over the ability of the Libyan legal and institutional justice system to address the gravity and scale of serious international crimes, not least because it has neither ratified, nor domesticated the Rome Statute's provisions on such crimes.

The Al-Senussi case was dismissed by the Court in 2014 as inadmissible in line with the principle of complementarity. Yet, despite the fact that Al-Senussi was convicted by a Libyan court in Tripoli and sentenced to death, the trial and the sentence raised serious concerns of due process violations, prompting questions regarding the impartiality and independence of trials in Libya.

On 5 November 2025, Mr Osama Elmasry Njeem, who is subject to an ICC arrest warrant issued on 18 January 2025, was arrested by the Libyan authorities in Tripoli (after being previously arrested and subsequently released in Italy by the Italian authorities), re-sparking due process concerns with respect to trials in Libya. It remains unclear whether Mr Njeem will be surrendered to the custody of the Court or prosecuted domestically. Please see later section for further information on cooperation on Mr Njeem's case.

In several European countries, investigations of crimes committed in Libya are conducted based on extraterritorial and universal jurisdictions. The principle of universal jurisdiction allows countries to prosecute individuals for very serious crimes regardless of the nationality of the perpetrator, nationality of the victims, or the place of commission of the crimes. Other crimes not falling in that category can also be prosecuted in third countries, when they have been partially committed in that country (such as smuggling or trafficking), and when they have been committed by or against a national of that country.

Since 2022, the Office of the Prosecutor participates in a Joint Investigative Team (JIT) on alleged crimes against migrants and refugees in Libya. This team consists of law enforcement authorities from Italy, Spain, The Netherlands, and the United Kingdom. The team is also supported by the EU Agency for Law Enforcement Cooperation (Europol). They work together to support the investigation of these crimes and share information and evidence.

As part of this joint effort, the Dutch Prosecution opened an investigation into Eritrean national Tewelde Goitom, also known as 'Walid', for his suspected involvement in the human smuggling and trafficking of migrants and refugees in Libya and initiated criminal proceedings against him. On 27 January 2026, 'Walid' was convicted to 20 years of imprisonment for "leading a criminal organisation, human trafficking, and extortion" in relation to the smuggling of migrants. We note, however, that he was not charged with – or convicted for – crimes against humanity. Similar proceedings against Walid's associate, Kidane Zekarias Habtemariam, are ongoing.

5 What is an arrest warrant? How can the ICC secure the arrest of sought individuals?

An arrest warrant is a legal document authorising the arrest of a person named in it. The Prosecutor may submit an application for an arrest warrant to the Pre-Trial Chamber at any time after the initiation of an investigation. The Pre-Trial Chamber then examines the evidence and other information submitted by the Prosecutor and decides whether the arrest warrant should be issued. The arrest warrant provides a basis for State authorities to arrest this individual.

Alternatively, the Prosecutor may submit an application to the Pre-Trial Chamber asking it to issue a *summons* for the individual to appear. A summons is communicated to the person who is requested to voluntarily appear before the Court. In practice, summons have rarely been issued. They are used only when there is reason to believe that the suspect will appear voluntarily.

Securing the arrest of the individuals sought can be challenging. The ICC does not have a way to enforce or execute arrest warrants on its own. It relies on States's cooperation to locate, arrest, and transport accused individuals to the Hague. In practice, even though States Parties to the ICC are obliged to arrest any person against whom the Court issued an arrest warrant, they can be reluctant to do so, particularly when it comes to the highest-level perpetrators.

Non-cooperation proceedings in relation to the Libya situation

On 18 January 2025, the ICC issued an arrest warrant against Mr Osama Elmasry Njeem. Mr Njeem was arrested and detained on 19 January 2025 by the Italian authorities. On 21 January 2025, the Italian authorities released Mr Njeem and repatriated him to Libya. On 17 October 2025, Pre-Trial Chamber I issued its decision that Italy failed to comply with its cooperation obligations pursuant to the Rome Statute.

Initially, the judges found that since Italy had already initiated domestic proceedings with respect to the non-cooperation, they were not yet in a position to make a referral to the UN Security Council or the Assembly of States Parties. Instead, they requested further information on domestic proceedings from Italy, which was transmitted to the Chamber by the Registry on 31 October 2025.

Following the exchange of communications regarding the matter, the judges finally issued, on 26 January 2026, the decision to refer Italy to the Assembly of States Parties, citing reasons including that the domestic proceedings initiated in Italy had been dismissed by the Italian Parliament. On 29 January, the ICC Presidency transmitted the decision to the President of the Assembly of States Parties. The Bureau of the Assembly will submit a report on the action taken, along with any recommendations, to the next session of the Assembly.

In parallel to this, a torture survivor who was unlawfully held in Libya, filed an application against Italy, for its non-cooperation with the Court, before the European Court of Human Rights. The claim argues that Italy's failure has resulted in a violation of the obligation to investigate violations of the rights to life and to be free from torture. There have yet to be any public updates on this case.

The ICC can also ask non-ICC member States to provide assistance to execute arrest warrants, but cooperation between the ICC and non-member States can even be less reliable as non-member States do not have the same obligations to cooperate with the Court as States Parties.

Where a situation was originally referred to the Court by the UN Security Council, in case of non-cooperation it may then impose measures such as economic sanctions, freezing of assets, travel bans, or even military intervention. To date, the ICC has informed the UN Security Council of the non-cooperation of at least six States (Chad, Djibouti, Libya, Malawi, Uganda, and Sudan). However, the Security Council has not used its powers to impose these measures yet.

Arrest warrants usually mention specific incidents or patterns of conduct. The Prosecutor decides which crimes and suspects to include in the proposed arrest warrants. These decisions depend on the prosecutorial strategy and other factors, from complementarity with other national investigations to the existence of strong evidence providing the link between the alleged perpetrator and specific crimes. In issuing arrest warrants, the Pre-Trial Chamber may also refuse to include certain incidents or suspects if it considers that the evidence is insufficient.

Arrest warrants issued by the ICC in the Libya situation

The Pre-Trial Chamber has issued a total of 15 arrest warrants in the Libya situation since 2011. Many of the arrest warrants issued in the Libya situation were issued *under seal*. This means that the judges decided to keep the contents of the arrest warrants confidential, publicising only some elements through press releases that include the names of the suspects, the alleged crimes, and the modes of liability. Typically, this is done to protect victims or to avoid alerting suspects who might otherwise evade arrest. On 4 October 2024, Pre-Trial Chamber I unsealed six arrest warrants in the Libya situation, pertaining to war crimes allegedly committed in the city of *Tarhuna*.

At the time of writing, the Office of the Prosecutor is planning to continue investigating in the Libya Situation through 2026 and possibly beyond. The Office of the Prosecutor has the possibility to request additional arrest warrants until the end of this investigation.

Name and position	Date of issuance	Crimes	Context	Status
Muammar Mohammed Abu Minyar Gaddafi , commander of the Armed Forces of Libya, acted as the Libyan Head of State	27 June 2011	Crimes against humanity involving (1) murder; and (2) persecution. These are covered by Articles 7(1)(a) and 7(1)(h) of the Rome Statute.	It is alleged that from 15 until at least 28 February 2011, in furtherance of a State policy aimed at deterring and quelling [...] the demonstrations of civilians against the regime of Muammar Gaddafi, the Libyan Security Forces, which encompass units of the security and military systems, carried out throughout Libya, an attack against the civilian population taking part in demonstrations against Gaddafi's regime or those perceived to be dissidents, killing and injuring as well as arresting and imprisoning hundreds of civilians.	Withdrawn due to the death of the suspect
Saif Al-Islam Gaddafi , Honorary Chairman of the Gaddafi International Charity and Development Foundation and acted as the Libyan de facto Prime Minister				Is to be withdrawn due to the death of the suspect
Abdullah Al-Senussi , Colonel in the Libyan Armed Forces and the Head of Military Intelligence				Withdrawn due to inadmissibility
Al Tuhamy Mohamed Khaled , Alleged former Lieutenant General of the Libyan army and former head of the Libyan Internal Security Agency (ISA).	18 April 2013	War crimes involving: (1) torture; (2) cruel treatment; and (3) outrages upon personal dignity. These are covered by Articles 8(2)(c)(i) and 8(2)(c)(ii) of the Rome Statute. Crimes against humanity involving: (1) imprisonment; (2) torture; (3) other inhumane acts; and (4) persecution. These are covered by Articles 7(1)(e), 7(1)(f), 7(1)(h), and 7(1)(k) of the Rome Statute.	It is alleged that between 15 February and 24 August 2011, in furtherance of a policy designed by the Libyan State to quash the political opposition to the Muammar Gaddafi regime by any means, a widespread and systematic attack was carried out by the Libyan military, intelligence and security agencies against the civilian population, including by arresting, detaining and mistreating perceived opponents of the Gaddafi regime. Members of the ISA and of other security forces arrested and detained persons perceived to be opponents of the Gaddafi regime, who were subjected to various forms of mistreatment in locations throughout Libya, including Zawiya, Tripoli, Tajoura, Misratah, Sirte, Benghazi and Tawergha.	Withdrawn due to the death of the suspect

Name and position	Date of issuance	Crimes	Context	Status
Mahmoud Mustafa Busyf Al-Werfalli , Major in Al Saiqa Brigade	First arrest warrant on 15 August 2017; Second arrest warrant on 4 July 2018	War crimes involving murder and covered by Article 8(2)(c)(i) of the Rome Statute.	<p>It is alleged that from at least early March 2011, an armed conflict not of an international nature was ongoing between governmental forces and different organized armed groups, or among such armed groups, which include the Al-Saiqa Brigade. The Al-Saiqa Brigade was involved in the armed conflict since the days of the revolution against the Gaddafi regime and since May 2014.</p> <p>The Al-Saiqa Brigade was organized in a hierarchical structure, with field commanders, acting under the overall command of Colonel Bukhmada. Orders were circulated down the chain of command and were obeyed and the brigade had the ability to plan military operations and put them into effect, in the context of which civilians were murdered.</p>	Withdrawn due to the death of the suspect.
Saif Suleiman Sneidel , a member of 'Group 50' of the Al-Saiqa Brigade, referred to as 'field commander' and an officer with rank of First Lieutenant	10 November 2020	War crimes involving: (1) murder; (2) torture; and (3) outrages upon personal dignity. These are covered by Articles 8(2)(c)(i) and 8(2)(c)(ii) of the RS.	<p>It is alleged that from at least early March 2011 until at least February 2018*, an armed conflict not of an international character had been ongoing on the territory of Libya between governmental forces and different organized armed groups, which include the Al-Saiqa Brigade.</p> <p>Further, it is alleged that since May 2014, the Al-Saiqa Brigade had been taking part in an operation launched by the Libyan National Army in Benghazi, known as '<u>Operation Dignity</u>', where members of the Brigade arrested, detained, ill-treated and executed individuals for their perceived opposition to General Khalifa Haftar (the commander of the Brigade).</p> <p><i>*NB: The temporal scope of the arrest warrant for Sneidel is on or before 3 June 2016 until on or about 17 July 2017.</i></p>	Outstanding

Name and position	Date of issuance	Crimes	Context	Status
<p>Nasser Muhammad Muftah Daou ('<u>Al Lahsa</u>') Makhlouf Makhlouf Arhoumah Doumah ('<u>Douma</u>'), 'right hand man' of member of the Kaniyat, 'Abdulrahem Al Kani' Abdurahem Khalefa Abdurahem Elshgagi ('<u>Abdulrahem Al Kani</u>'), a leader of Al Kaniyat Mohamed Mohamed Al Salheen Salmi ('<u>Mohamed Salheen</u>')</p>	6 April 2023	<p>War crimes involving: (1) murder; (2) outrages upon personal dignity; (3) cruel treatment; and (4) torture. These are covered by Articles 8(2)(c)(i) and 8(2)(c)(ii) of the RS.</p> <p>War crimes involving: (1) murder; (2) cruel treatment; (3) torture; (4) outrages upon personal dignity; (5) sexual violence; and (6) rape (Articles 8(2)(c)(i), 8(2)(c)(ii), and 8(2)(e)(vi))</p>	<p>Following the fall of the Gaddafi Regime, the Al Shaqaqiat tribe, also known as the Al Kani family, emerged as an influential local power in the city of Tarhunah. A group formed around the 7 Kani brothers became known as the Kaniyat. By 2015, the Kaniyat controlled Tarhunah based on intimidation and violence, exercising control over the police and local armed forces as well.</p> <p>It is alleged that on around 4 April 2019, the Kaniyat was integrated in the LNA, and played a role in an attack on the city of Tripoli, entitled Operation Flood of Dignity, until around 5 June 2020 when the Kaniyat lost control over Tarhunah.</p> <p>During the Kaniyat's period of control over Tarhuna, it is alleged that people were mistreated, tortured and killed.</p>	Outstanding
<p>Abdelbari Ayyad Ramadan Al Shaqaqi ('<u>Al Shaqaqi</u>'), cousin and close associate of Al Kani brothers Fathi Faraj Mohamed Salim Al Zinkal ('<u>Al Zinkal</u>')</p>	18 July 2023	<p>War crimes involving: (1) murder; (2) outrages upon personal dignity; (3) cruel treatment; and (4) torture (Articles 8(2)(c)(i) and 8(2)(c)(ii))</p> <p>War crimes involving: (1) murder; (2) cruel treatment; (3) torture; (4) outrages upon personal dignity; (5) sexual violence; and (6) rape (Articles 8(2)(c)(i), 8(2)(c)(ii), and 8(2)(e)(vi))</p>		

Name and position	Date of issuance	Crimes	Context	Status
Osama Elmasry / Almasri Njeem ('Osama Elmasry Njeem'), the director of Mitiga Prison or otherwise holding a high position in the prison's administration	18 January 2025 and corrected version on 24 January 2025	<p>War crimes involving: (1) outrages upon personal dignity; (2) cruel treatment; (3) torture; (4) sexual violence; (5) murder; and (6) rape. These are covered by Articles 8(2)(c)(i), 8(2)(c)(ii), and 8(2)(e)(vi) of the Rome Statute.</p> <p>Crimes against humanity of: (1) imprisonment; (2) torture; (3) sexual violence; (4) rape; (5) murder; and (6) persecution (Articles 7(1)(a), 7(1)(e), 7(1)(f), 7(1)(g), and 7(1)(h))</p>	<p>It is alleged that from February 2015 onwards*, detainees of the Mitiga Prison, the largest detention facility in Western Libya, were imprisoned, killed, tortured, mistreated, and in some instances subjected to sexual violence and rape, by members of the SDF – colloquially known as RADA – who had control over the prison.</p> <p>The SDF/RADA allegedly worked pursuant to a common plan with political and economic ambitions, including fighting terrorism, to target whomever its members perceived as terrorists or opponents.</p> <p><i>*NB: The temporal scope of the arrest warrant for Al Hishri is from around February 2015 to, at least, early 2020.</i></p>	<p>Njeem arrested and detained in Libya.</p> <p>El Hishri transferred by Germany to the custody of the ICC.</p>
Khaled Mohamed Ali El Hishri ('Al Booti' or 'Sheikh Khaled' or 'Al Hishri'), officer and first lieutenant for the Ministry of Interior, and founding member and senior official in the Special Deterrence Forces (SDF)/RADA	10 July 2025	<p>War crimes involving: (1) cruel treatment; (2) torture; (3) outrages upon person dignity; (4) rape; (5) sexual violence; and (6) murder (Articles 8(2)(c)(i), 8(2)(c)(ii), and 8(2)(e)(vi))</p> <p>Crimes against humanity involving: (1) imprisonment; (2) torture; (3) rape; (4) sexual violence; (5) murder; and (6) persecution (Articles 7(1)(a), 7(1)(e), 7(1)(f), 7(1)(g), and 7(1)(h))</p>		

II. UNDERSTANDING YOUR RIGHTS AS A VICTIM BEFORE THE ICC



©Ismail Zitouny/ REUTERS. Demonstrators call for Abdullah al-Senussi to be brought to justice, accused of playing a key role in the 1996 Abu Salim prison massacre. Senussi was investigated by the Court for Crimes against humanity involving murder and persecution committed in Benghazi, Libya, from 15 to 20 February 2011. Tripoli, April 5, 2013.

6 How can I get in touch with the Office of the Prosecutor if I have information that is relevant to the Libya situation?

Any person who has information related to the crimes that fall within the scope of an ICC investigation can send it to the Office of the Prosecutor.

Sending information to the Office of the Prosecutor

Before submitting information to the Office of the Prosecutor, victims and other individuals may find it useful to speak with civil society organisations or lawyers that work on matters related to the ICC investigation in Libya. These organisations and individuals are familiar with ICC proceedings, the relevant procedures, and ways to submit information, so they can help victims fill in relevant forms and submit evidence but also understand their risks before engaging with the Office of the Prosecutor. A list of such organisations and contact details can be found in [Annex 2](#).

Information provided to the Office of the Prosecutor may be helpful for the Office in identifying perpetrators and building cases. Not all information submitted to the Prosecutor will result in a case before the ICC or form part of the charges brought against individual perpetrators. Submitting information to the Prosecutor also does not guarantee that the person submitting it will be contacted later or receive any response. However, even if the information submitted does not result in a specific ICC case, it still helps the Office of the Prosecutor to shape its strategy.

Sending information to the Office of the Prosecutor does not mean that this information will reach the Registry or other Court organs. If victims wish to participate in the proceedings, they need to contact the Registry separately.

Confidentiality and security

Participating victims who are concerned about specific information (e.g., information that can lead someone to identify them) being disclosed to the defence team, should ask the Office of the Prosecutor that such information is kept confidential. However, such requests for non-disclosure are not granted automatically: if a victim shares information with the Prosecutor which is subject to disclosure (which means that it must be shared with the defense team before trial), the disclosure obligations will override the request from the victim.

7 How can I participate in the ICC proceedings?

Participation looks different depending on whether the person participates as a **victim** or as a **witness**.

Victim status before the ICC

To qualify as a victim before the ICC, a person must meet several criteria:

- The applicant must have suffered direct or indirect personal harm as a result of the crimes in question.
- The alleged crimes which caused the victim's harm must be crimes that are part of the proceedings before the Court.
- Victims need to provide a copy of their identity document. If they are a close family member of the direct victim, they also need to provide proof of kinship.

For victims who are natural persons, harm can take many different forms. It can be physical, which may include physical or bodily injury, but may also have a broader meaning.

Harm can also be psychological, or emotional, meaning emotional distress or harm to an individual's mental health. For instance, psychological harm may be caused by what the victim experienced or witnessed.

Harm can also be material, which means that someone suffered harm to their property or loss of property or income. This list is not exhaustive, and other types of harm (for instance, loss of educational opportunities) have also been recognised as a sufficient form of harm.

In the case of *Ntaganda*, the Court ruled that the *forcible transfer* of persons and their subsequent displacement in situations where they have no access to food, water, shelter, or medical care may mean that they experienced physical harm. Further, the sustained suffering and hurt experienced by the victims under such conditions also amounts to physical harm.

The most common example of indirect harm is the psychological or material harm caused to the relatives of those killed or seriously harmed by the crimes. Indirect harm must be harm suffered personally by victims.

Organisations or legal persons may also be considered victims but only to the extent that their properties dedicated to specified purposes - religion, education, art, science or charitable purposes; as well as properties such as historic monuments, hospitals and other places and objects for humanitarian purposes - have been damaged or destroyed.

Witness status before the ICC

A *witness* is a person who has personally observed or has knowledge of the crimes or the context of the crimes being investigated. Witnesses will participate by giving written statements and/or by testifying before the Court, with their testimony being used as evidence.

A witness has not necessarily suffered harm because of the crimes. There may be insider witnesses who have also contributed to the commission of the crimes or expert witnesses who have expert knowledge that is relevant to the case.

There may be an overlap between victims and witnesses when victims also become witnesses in Court proceedings — in such a situation the Court calls it “dual status”.

The Court also takes steps to protect witnesses who participate in Court proceedings. Witnesses have access to the Victims and Witnesses Section support team, which offers psychological and medical support if needed, and can also request protection measures.

Difference between victims acting as participants (or ‘participating victims’) and as witnesses

Participating victims voluntarily communicate their views and concerns to the Court. Their involvement can occur at any stage of the proceedings as deemed appropriate by the judges. They are always represented by a legal representative, without the need to appear in person. The legal representatives will communicate their views either in writing (by filing submissions) or by appearing in person before the judges.

By contrast, when victims serve as witnesses, they are called to testify by the prosecution, defence, victims’ legal representative, or the Chamber. As witnesses, they serve the interests of the Court and the party that calls them, providing evidence through testimony and answering related questions, typically in person and without the benefit of a legal representative.

In the following sections, this guide will focus primarily on the rights of victims acting as participants.

Participation at the investigation stage

Victims can participate in proceedings at the investigation stage, including by initiating those proceedings themselves. Issues on which victims may seek to provide their views at the early stages can include, for instance, any jurisdictional issues that may arise at this stage. In any procedures before the judges about whether an investigation can be opened, and when there is a deferral request, victims can also be heard on the questions of whether the investigation should be opened, what its scope should be, and whether it should be put on hold to allow a State to investigate. Victims may also want to provide their views where the Prosecutor decides not to investigate or discontinue the investigation of a particular situation.

There are other issues that victims may want to provide their views on during an investigation, for example, protection issues or outreach, but it remains at the discretion of the judges whether their views can be heard in each particular instance. Judicial practice in this area has been inconsistent: despite some decisions allowing victims to raise issues that concern them at the investigation stage, in other decisions, judges have ruled that this is not possible.

In practice, victims often face difficulties having their views heard at the investigation stage. In the **Libya situation**, the Office of Public Council for Victims (OPCV) asked the Pre Trial Chamber I if the OPCV could present victims' views during proceedings on Italy's failure to cooperate with the Court in the arrest of Mr Njeem. In particular, victims wished to present their views in support of a finding of non-compliance and referral of Italy to the Assembly of States Parties. However, Pre Trial Chamber I denied the OPCV's request, citing that the proceedings against Italy are separate from the proceedings against Mr Njeem.

Another recent example is the **Venezuela Situation** involving crimes against humanity: in November 2023, the judges allowed the Prosecutor to continue the investigation in Venezuela, a decision that was appealed by Venezuela. Following the appeal, legal representatives of victims asked the judges if they could present victims' views on behalf of the 609 victims they represented. Although the judges of the Appeals Chamber agreed to transmit the victims' views to the Chamber, they denied the victims' representatives the possibility to intervene during the hearing.

In the situation in **Bangladesh/Myanmar**, the legal representatives of victims requested that the Chamber require the Office of the Prosecutor to allow victims to have their lawyer present when being interviewed by the Office. However, the Chamber ruled that victims had no standing to make such a request.

However, the practice of the Court differs from situation to situation and granting or not granting such requests remains at the discretion of the judges.

Even if the options for victims to participate through a lawyer at the investigation stage are often limited, victims are still able to provide information to the Prosecutor. Victims can send information to the Prosecutor about crimes they believe have been committed, and in some cases, they may be interviewed by the investigators of the Office of the Prosecutor. This information may at a later stage inform the scope of charges brought against individual perpetrators. As mentioned previously, before sending any information, victims are encouraged to consult a lawyer or civil society organisations.

Where victims want to participate in proceedings at this stage, this can happen without having to complete an application form.

It should be noted that forms received at the investigation stage and related to the situation in general and not to a specific case are not transmitted to the Chamber, so victims are not systematically informed of the outcome of the application. They can, either directly or through their lawyer, contact the VPRS through email (VPRS.information@icc-cpi.int) to request information about the status of their application. The VPRS always responds to enquiries received by email.

Participation at the pre-trial and trial stages

During the pre-trial and trial stages of a case, victims have broader possibilities to engage with the Court. They can apply to be recognised as victims, and once they obtain victim status, they should be kept informed about developments in the case through their legal representative, intermediaries, or staff of the ICC office in the relevant country, if applicable. They will be able to participate by providing their views and concerns to the ICC judges through their lawyers when their interests are affected.

Victims usually do not participate in Court proceedings in person but instead communicate their views through their common legal representatives (see [later section](#)). In some circumstances, victims may be called upon to provide their testimonies as witnesses during the trial, either at the request of their own lawyers, or at the request of the Prosecution or the Defence. In this case, they may appear in person before the Court to testify.

In order to apply to participate in a case before the ICC, victims should submit an application using the form approved by the Court. Even though in theory victims can apply for participation at the earlier stages, in practice judges will review and decide only those application forms that appear to be linked to a case where a suspect has appeared before the Court. This means that it is advisable to send applications after the first appearance of the suspect.

Participation forms, additional information on victim participation, and information on who can assist victims with filing in the forms can be requested from the ICC's Victims Participation and Reparations Section ([VPRS](#)), an office based in the Hague and tasked with providing information to victims.

Victims can be assisted in submitting an application by staff and volunteers of the civil society organisations which work in partnership with the ICC in the relevant country. Victims will receive an acknowledgment that their application form has been received.

Participation at the reparations stage

If an accused person is convicted by the ICC, they may be ordered to provide reparations to the victims.

When the convicted persons are indigent (which means that they do not have any assets to pay reparations), the judges order the reparations to be made through the Trust Fund for Victims (the agency created by the States Parties to the ICC and responsible for implementing reparations – see in more detail [later section](#)).

Even after reparations measures are ordered, it may take a long time before they are delivered. The reasons for the long delays are diverse, from complexity and the number of beneficiaries to the fact that the convicted person is found to be indigent. In such cases, the Trust Fund for Victims appeals to the States Parties and other potential donors to contribute funding to finance the reparations ordered by the Court.

The victims may use the Court's [standard application forms](#) to make requests to receive reparations. The application to receive reparations is the same application that victims use to apply for participation in the proceedings. It is designed to enable victims to apply to participate and request reparations at the same time, noting that it is not obligatory to do so i.e.: victims may choose to participate only or request reparations only.

The practice of the Court has varied over time. Sometimes victims who applied for reparations at an early stage of a case have been required to apply again at the reparations stage. The Court has now improved its practice and will not ask victims to apply again if they already have done so. However, the VPRS may request additional information at new stages of proceedings, depending on how the scope of the case changes. Victims who have not participated in the trial proceedings are able to apply for reparations during the reparations phase if they suffered harm as a result of the crimes that the accused was sentenced for.

In most cases, the ICC judges have decided whether or not each victim is entitled to reparations after reviewing the applications and their supporting documents. Recently, however, in the *Ntaganda* case the Appeals Chamber decided that the Trial Chamber has the option to decide only on a representative sample of applications, which should reflect the range of sets of victims' circumstances. After this, the review of all the other applications will be done by the VPRS based on these decisions by the judges. Victims can challenge negative decisions on their eligibility before the Trial Chamber.

8 What is legal representation before the ICC and how do I get a legal representative?

Role of legal representative(s)

Victims can be represented by a lawyer at the ICC at all stages of the proceedings. A lawyer provides them with guidance and represents them before the Court, in particular:

- Explaining the Court's procedures to victims and informing them of what is or is not happening in the Court's proceedings and why.
- Advising them of their rights, including how they can participate in proceedings and claim reparations, and on the possible benefits and risks of taking different steps in the proceedings.
- Listening to victims' concerns, including concerns related to the possibility of re-traumatisation, safety or risk of retaliation, and concerns related to the Court's procedures, and taking any possible steps to address these, including raising matters with the Court's judges, at the victim's request.
- Making submissions, arguments and requests on behalf of victims before the Court during relevant court proceedings.

Most importantly, a victims' lawyer must follow the requests and instructions of the victims and is there to defend the victims' interests. The lawyer also has strict obligations to keep the victims' information confidential unless the victim agrees to share it with others.

Who can represent victims before the Court?

The basic rule at the ICC is that victims can choose their own lawyer. As proceedings progress, the judges may arrange 'common legal representation'. In practice, legal representation can operate differently at different stages of ICC proceedings.

Legal representation at the investigation stage

Victims are already able to make use of legal representation at this stage and are free to choose their own lawyers (**Legal Representatives of Victims, or LRVs**) so that they can communicate their views to the judges.

However, at the investigation stage, legal representatives of victims do not have their fees paid by the Court, other than in exceptional circumstances, in line with the Court's Legal Aid Policy. According to the policy, when approved by the Chamber, one or more legal representatives of victims may be given a limited lump sum amount only for specific activities, such as communication and provision of legal advice to victims, coordination with the Court organs, and submission of reports to the Registry. However, to date, this has not been implemented.

Legal representation at the pre-trial and trial stage

At the pre-trial stage, once there is an arrest warrant and a suspect has appeared before the Court, the Pre-Trial Chamber might order that **common legal representatives of victims (CLRVs)** be appointed, to avoid there being many separate legal teams representing different groups of victims.

In principle, victims may agree among themselves on the lawyer who will be their common legal representative. A CLRV is a lawyer appointed by the judges to represent all the victims in a case or a group of the victims. Because in many cases there are large numbers of victims, it would not be practical for each victim to have their own legal representative. The VPRS, when ordered by the Chambers, consults victims and submits a report, in which it can make recommendations to the judges about how legal representation could be organised for all the victims participating in the case.

Another body that can provide legal representation to victims is the **Office of Public Counsel for the Victims (OPCV)**. The OPCV is an independent office within the Court. Its role is to provide assistance and support to external lawyers representing victims, as well as uphold the general rights of victims during the proceedings. In some cases, counsel from within the staff of the OPCV have been appointed by the judges to represent victims directly.

In the El Hishri Case, Pre-Trial Chamber I provisionally appointed the OPCV to represent the collective interests of potential victims in the case, until a team of common legal representatives is appointed. The appointment of the OPCV remains valid as per Pre-Trial Chamber I's decision on the legal representation of victims issued on 12 March 2026. The judges ruled that, given the low number of victim applications received so far, the short time remaining until the confirmation of charges hearing, and the fact that the scope of charges for the purpose of the confirmation of charges hearing remains to be set, it is premature to start the formal selection process of common legal representatives. Consequently, the OPCV will continue representing the interests of potential victims at this stage, at least until the Chamber makes a decision on their victim's status, in light of the charges.

What choice do I have?

Victims can indicate in their application form, when they apply to participate in the proceedings, whether they have already chosen a legal representative. If they have not chosen one, they can also indicate whether they have any views or preferences regarding who should represent them (e.g., if they want their legal representative to speak a specific language, or be from a particular nationality) or if they have reasons to be concerned about being represented together with other victims (i.e., if there are competing interests between different victim groups).

If the victim has not chosen a legal representative yet, they will also be included in the process of common legal representation, so that the judges can appoint an external legal representative or the OPCV to represent them. This is done once the victim's application is transmitted to the judges, which means not earlier than after the first appearance of the suspect.

If the victim has already chosen a legal representative, this lawyer can represent them throughout the situation stage and until the pre-trial stage starts (however, as indicated previously, without being entitled to have their fees paid under the Court's legal aid scheme). Once pre-trial proceedings start and a suspect is before the Court, the VPRS will usually recommend appointing a Common Legal Representative for Victims to represent a group of victims (sometimes hundreds), instead of the several independent LRVs who may have been previously chosen by victims. The CLRV appointed by the Court may be one of those who already represents some of the victims but may not have been chosen by all the victims. The CLRV may be an external lawyer or from the OPCV, depending on the decision of the judges.

What are the requirements for a lawyer to be an LRV?

Only a lawyer who is registered on the list of counsel maintained by the ICC Registry can represent victims in ICC proceedings. If the lawyer chosen by the victim is not already on this list, they can apply to be put on the list. Even if not added to the list, they can still support the victim, help them submit an application or fill out a form, in the same way a civil society organisation can, but cannot represent them before the Court, unless they are admitted to the list.

Requirements for a lawyer who wishes to be put on the list of counsel include:

- Competence in international or criminal law and procedure
- At least ten years of experience in criminal proceedings, whether as a judge, prosecutor, advocate or in another similar capacity (five years of experience for those who wish to be included in the ICC's List of Assistants to Counsel)
- Fluency in English or French
- Must not have been convicted of a serious criminal or disciplinary offence considered to be incompatible with the nature of the office.

9 How can I receive protection if I am at risk of retaliation?

Before deciding on whether they want to participate in the proceedings before the ICC, victims should consider the potential safety implications of such a decision. There may be a risk that the fact a victim is participating in proceedings becomes known to the accused or sometimes the broader public, despite efforts of the Court and the victims themselves to keep this information confidential. This can lead to attempts by perpetrators or their allies to harm, intimidate, or dissuade the victim from participating or providing information to the Court.

Context-specific risks of reprisals

Risks related to participation in proceedings and appropriate ways to address them depend on the context. In cases relating to Kenya, there were reported instances of intimidation and witness disappearances. This generated fear among participating victims that the accused could use the State apparatus to target them. In the DRC, victims expressed concerns that their association with the ICC made them vulnerable to attacks by local warlords.

In the **Libya situation**, such risks may be particularly relevant for victims and their family members who live in Libya and could be subjected to reprisals from the Libyan authorities given that most of the suspects against whom the ICC has issued arrest warrants seem to currently live in Libya.

Risks may increase if a victim is called on to testify as a witness. ICC judges have recognised that in nearly all ICC cases that progressed to the trial phase, there have been incidents of witness interference, including at least one incident of murder, incidents of intimidation, disclosing of witnesses' personal information, and other types of interference.

What can victims do to address or mitigate the risks?

Before describing the measures that the Court can take to protect victim participants, it is important to acknowledge that there are steps that victims themselves may be able to take in order to mitigate the risks of participating in ICC proceedings.

Before applying, think about any risks that may arise. Inform your legal representative or the organisation assisting you to fill out an application about any concerns.

Carefully consider all factors before telling anyone other than the Court about the fact you have submitted an application to participate in proceedings. It is usually safer for the participant if the information about their application is kept confidential.

What protection measures can the Court offer to victims and witnesses?

In principle, victims and witnesses and others who are at risk because of their interaction with the Court have the right to protection. This right is implemented differently depending on whether the victim is also a witness. However, as explained in the following section, for both victims and witnesses, protection mechanisms rarely involve active physical protection. Often they consist of measures to protect the confidentiality of the person's involvement with the Court.

If the participating victim is not a witness

If the victim is not a witness, the only protective measure that the Court will implement is the redaction of all confidential information from their application for participation or reparations, if or when it is transmitted to the parties in case proceedings. This means removing any information that might reveal the identity of a person. The VPRS systematically applies such redactions when a victim's application is transmitted to the parties (the Prosecution, Defence and LRV), if disclosure is ordered by the Chamber.

Each victim applying to participate in proceedings before the ICC is assigned a code. This code is a reference number used by the VPRS to refer to the victim and the victim's application. In such cases, the VPRS contact the victims whose applications may be shared with the parties to inform them of this. The victims have the right to request the withdrawal of their application to avoid sharing the redacted version with the parties. However, this leads to the victims losing their right to participate in the proceedings at future stages.

Participating victims who are concerned about specific information being disclosed, for instance, specific circumstances that can lead someone to identify them, should ask the VPRS that such information should be kept confidential.

If the victim is called to testify as a witness

As discussed previously, some victims may be called upon to testify before the Court in the capacity of witnesses. Witnesses may face heightened risks. The **Victims and Witnesses Section (VWS)**, a specialised unit at the Court, is responsible for offering support and protection to witnesses and participating victims. Contact with the VWS is usually done through the victims' counsel.

De facto, specialised support and protection measures is usually made available only to witnesses who testify before the Court. There are two broad categories of protection services: in-country protection and support measures and support provided during Court proceedings.

In-country protection and support

This type of support is provided in the country where the witness is located. Following a referral from the prosecution, counsel, or the victim's legal representative, the VWS conducts an assessment and submits a recommendation to the Registrar whether the witness requires specific protection measures and should be admitted into the programme. This process may take several months.

In the meantime, interim protective measures such as relocation to another part of the country or a different country may be available. In general, this type of measures is only applied when there is a high likelihood that the witness will be harmed or killed unless action is taken to prevent that. Further, only those risks that relate to the interaction with the Court are taken into consideration during the assessment.

The VWS can also assist family members who are in danger as a result of a witness's testimony.

Support in preparation for proceedings: security measures, psychological support, and logistical support

Before the witness gives their testimony before the Court, the VWS helps them prepare for the proceedings: it explains to them their role in the proceedings and familiarises with the courtroom and relevant procedures.

It also discusses any security concerns and makes an assessment whether protective measures may be required before, during or after the testimony. An application to the judges for protection measures to be applied during Court proceedings may also be made by the Office of the Prosecutor based on their assessment of the witness' circumstances. Such measures can include:

- closing hearings to the public,
- using voice distortion and face pixelation,
- using pseudonyms to protect the identity of the witness.

The VWS may provide psychosocial support and other types of assistance as necessary. However, such support is mainly available to witnesses. Psychologists or other professionals may provide assistance to particularly vulnerable witnesses during court proceedings. Judges may also allow a mental health professional, family member, or other support person to be present during testimony.

Moreover, the VWS provides administrative and logistical support to enable victims who testify as witnesses to go the Court hearings in person. This may extend to immigration, transportation, and accommodation support. To access these services, the Prosecutor or counsel must submit a request to the VWS. Such request can also be made by the ICC judges.

Other support, such as accompanying support persons, dependent care, extraordinary allowances for lost earnings and clothing allowances, may be provided on a case-by-case basis based on an assessment by the VWS.

The Court has a duty to take all appropriate measures to protect the safety, well-being, dignity and privacy of victims and well-being throughout proceedings. However, in reality, depending on the context, the Court may not be able to guarantee full protection, especially in situations of ongoing armed conflicts. It is also important for victims to be aware that the Court may assess protection risks and needs differently than how the victims themselves may perceive them.

III. UNDERSTANDING ICC REPARATIONS



© Mohammed Salem/REUTERS. Former International Criminal Court Chief Prosecutor Luis Moreno Ocampo visits a military base in Tripoli on November 23, 2011, where victims' remains were discovered.

10 What are reparations and what forms of reparations can be ordered by the ICC?

If a Trial Chamber finds a person guilty of crimes after a trial, the Chamber may make an order of reparations against the convicted person for the benefit of victims. Reparations aim to repair, to the extent possible, harm suffered by the victim.

A variety of reparations measures can be ordered by the Court. They can include compensation, restitution, rehabilitation, and/or satisfaction measures. Compensation means that the convicted person must make payments to victims as a way to repair the harm for which they are liable. Restitution is the return of property that was stolen or seized from a victim. The Court can also order that rehabilitation is made available for victims. This can include psychological, medical, or economic rehabilitation to repair the harm suffered by the victims. Finally, the Court can order satisfaction measures (or symbolic reparations). Examples of symbolic reparations measures include formal apologies and memorials for the crimes committed.

The Court may award individual or collective reparations measures or a mix of both types. Collective measures are those that benefit a community or group of victims. Collective reparations measures may have individualised components. For example, as part of a reparations award, a Trial Chamber may order that a group of victims is given access to individualised medical and psychological care.

The Court will determine which measures are most appropriate to address the harm suffered by the victims.

11 Who can be awarded reparations?

While the number of victims affected by the situation in the country may be very large, only victims who have suffered harm as a result of the crimes for which the individual perpetrator has been convicted (victims of a case) can be awarded reparations. This means that the ICC reparations decisions will likely benefit only some victims who suffered harm as a result of a particular conflict or context that devastatingly affect tens or hundreds of thousands of persons. This is because the ICC is designed to be complementary to other accountability efforts and cannot provide justice and reparations to all victims of a conflict or mass human rights violations that took place in a country.

Another important distinction to understand regarding ICC reparations is the difference between direct and indirect victims. A direct victim is someone who has personally suffered harm as an immediate result of the crimes of the convicted person. On the other hand, an indirect victim is an individual who has suffered personal harm due to the crimes committed against a direct victim. For example, a direct victim may suffer physical harm due to crimes committed against them. Additionally, an indirect victim who is a family member of the direct victim may suffer psychological and emotional harm due to the crimes committed against the direct victim who is their close relative.

Four categories of indirect victims have been recognized by the Court:

- the family members of direct victims;
- anyone who attempted to prevent the commission of one or more of the crimes under consideration;
- individuals who suffered harm when helping or intervening on behalf of direct victims; and
- other persons who suffered personal harm as a result of these offences, including those who witnessed the commission of such crimes.

Both direct and indirect victims can receive reparations. But the type of reparation and its amount may differ. Additionally, when applying for reparations, indirect and direct victims might have to provide different types of proof as to their harm suffered, unless the Chamber decides, as it has in some cases, that certain types of harm suffered will be presumed.

Rule 94 of the Rules of Procedure and Evidence lists the information and documents that a victim requesting reparations may be required to provide. These include:

- identity and address of the victim;
- description of the loss, harm, or injury suffered;
- details of the incident including the date, location, and the possible identity of the perpetrator; and
- claims for compensation, rehabilitation or other remedies.

While the Rules do not provide for any difference in proof required for direct and indirect victims, indirect victims must be able to establish that, as a result of their close and personal relationship with the direct victims, the harm done to the direct victims gives rise to harm to the indirect victims.

12 When and how are reparations measures determined?

Reparations measures can only be ordered after the end of a trial, and only if the Court has found an accused person guilty. A reparations order can be overturned or altered on appeal. As with other judgments and decisions made by the Trial Chamber, once upheld by the Appeal Chamber, the reparations order becomes final.

In developing a reparations order, the Court will want to hear the views of victims themselves, through the appointed LRV, as well as the convicted person and others such as the Court's Trust Fund for Victims. It will take into account: the number of victims, the type of harm suffered, the requests made by the victims and the types of reparations that would best address the harm suffered. The Court only analyses harm caused by the crimes for which the perpetrator was convicted. The Court takes the rights of the accused person into account when determining reparations measures.

13 Who is responsible for the implementation of reparations orders?

The convicted person is in principle responsible for paying for reparation measures ordered by the Court. In practice, since in most cases this person has insufficient funds or resources to pay for the measures, the Trust Fund for Victims is empowered to implement the reparations orders using funds it receives from contributions, mostly from States.

After the Trial Chamber issues a reparations order, the Court will ask the TFV to submit a plan, in which they explain how they will implement the order. The victims and the convicted person will be able to voice their concerns about the plan, and the Trial Chamber will rule on it. As with other decisions, the Appeals Chamber will be able to uphold, revise, or overturn the Trial Chamber's decision on the adoption of the implementation plan.

The TFV works with partners and intermediaries in the victims' communities and other national and international partners to implement the reparations.

14 What is a programme for the benefit of victims and how is it different from reparations?

The Trust Fund for Victims may also set up programmes for the benefit of victims of crimes under the ICC's jurisdiction in a situation country. Such programmes can include assistance programmes. Unlike reparations, this mandate is not linked to the conviction of an individual. Nor is it limited to victims who have applied to participate, or whose harm is linked to a specific case. Any victim of crimes within the scope of the situation can in principle benefit from these measures. These programmes can be set up at any stage once an investigation is open and consist of measures providing physical and psychological rehabilitation and material support to the victims and their families.

The assistance mandate is not linked to a criminal responsibility of individuals. This allows the TFV, through its assistance mandate, to address and repair harms in a timelier manner than a judicial process that might take a long time. Further, a broader range of victims are able to benefit from such programmes regardless of whether the harm they suffered stems from a particular crime being tried in a specific case.

The TFV has not yet set up a programme in Libya.

In delivering assistance programmes, the TFV normally has to navigate numerous challenges and limitations, including those that relate to fundraising, and to safety and security. These programmes are dependent on voluntary contributions from donors, and the outcome of fundraising efforts can significantly affect TFV's ability to fund its assistance programmes. Ongoing war or continuing political instability in a country can also impede the TFV's ability to implement its assistance programmes.

Annex 1: Useful Links and Documents

About the Libya situation

[Libya – International Criminal Court](#)

[Situation in Libya – Information for victims](#)

[Introduction to the Libya Situation before the ICC \(Video\) \(Arabic\)](#)

About the ICC

[ICC at A Glance \(Arabic\)](#)

[General Information about the Court \(Video\) \(Arabic\)](#)

[Rome Statute of the International Criminal Court \(English\)](#)

[Rome Statute of the International Criminal Court \(Arabic\)](#)

[Understanding the International Criminal Court \(English\)](#)

[Understanding the International Criminal Court \(Arabic\)](#)

[ICC Rules of Procedure and Evidence](#)

[ICC Explanatory note on Elements of Crimes \(English\)](#)

[Elements of Crimes \(Arabic\)](#)

[Infographics & Animations \(Arabic\)](#)

Regulations

[Regulations of the Court](#)

[Regulations of the Office of the Prosecutor \(OTP\) \(English\)](#)

[Regulations of the Office of the Prosecutor \(OTP\) \(Arabic\)](#)

[Regulations of the Registry](#)

Victim participation

[Victims before the International Criminal Court: A guide for the participation of victims in the proceedings of the ICC](#)

[Victims' Rights Before the Court \(Video\) \(Arabic\)](#)

Legal Representation

[Guide for applicants to the ICC List of Counsel and Assistants to Counsel](#)

[List of Counsel before the ICC](#)

[List of Assistants to Counsel](#)

[Code of Professional Conduct for Counsel \(English\)](#)

[Code of Professional Conduct for Counsel \(Arabic\)](#)

Application Forms

[Application Form for Individuals \(ENG\)](#)

[Application Form for Individuals – Fillable \(ENG\)](#)

[Application Form for Organisations \(ENG\)](#)

[Application Form for Organisations - Fillable \(ENG\)](#)

Annex 2: Contacts of Court Organs and Section, the Office of the Prosecutor and Civil Society Organisations Assisting Victims in Libya

Court Organs and Sections

ICC Office of the Prosecutor (OTP), online portal to send information: [OTPLink \(icc-cpi.int\)](https://otplink.icc-cpi.int)

ICC Victim Participation and Registration Section (VPRS): VPRS.information@icc-cpi.int

Civil Society Organisations

Lawyers for Justice in Libya (LFJL)

Info@libyanjustice.org; accountability@libyanjustice.org

REDRESS

info@redress.org

European Center for Constitutional and Human Rights (ECCHR)

info@ecchr.eu

International Commission of Jurists – (ICJ)

mail@icj.org

Defender Center

[Contact form](#)

Adala for All (ALA)

[Contact form](#)

Libya Crimes Watch (LCW)

[Contact form](#)

**Photo cover by: International Criminal Court /
Cour pénale internationale**
Judges enter Pre-Trial Chamber I for the opening
of the confirmation of charges hearing in the
case of Khaled Mohammed Ali Hishri, suspected
of war crimes and crimes against humanity in
Libya. The Hague, 19 May, 2026.

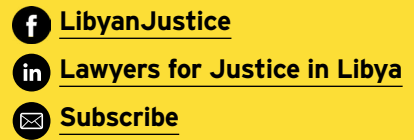
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Libyanjustice.org

Info@libyanjustice.org



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