VRWG BRIEFING NOTE

LESSONS LEARNED FROM THE EL HISHRI CONFIRMATION OF CHARGES HEARING

Recommendations to improve victim participation, accessibility, and survivor engagement at future ICC hearings



©ICC-CPI. Judges enter Pre-Trial Chamber I for the opening of the confirmation of charges hearing in the case of Khaled Mohammed Ali Hishri.

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REFUGEES IN LIBYA

LCW LIBYA CRIMES WATCH رصد الجرائم في ليبيا

ECCHR EUROPEAN CENTER FOR CONSTITUTIONAL AND HUMAN RIGHTS

Lawyers for Justice in Libya

FIDH INTERNATIONAL FEDERATION FOR HUMAN RIGHTS

REDRESS
Ending torture, seeking justice for survivors

COALITION FOR THE INTERNATIONAL CRIMINAL COURT

Global Initiative Against Impunity
for International Crimes and Serious Human Rights Violations

BACKGROUND

Held from 19 to 21 May 2026, the confirmation of charges hearing against Khaled Mohamed Ali El Hishri in the Libya situation marked an important procedural milestone before the International Criminal Court (ICC), as the first case resulting from the ICC's 15-year investigation into Libya to reach this phase. Following the hearing, on 16 July 2026, Pre-Trial Chamber I unanimously confirmed all 17 charges against El Hishri and committed the case to trial.

PURPOSE AND METHODOLOGY

In this context, the Victims' Rights Working Group (VRWG)[1], with Libya Crimes Watch, Lawyers for Justice in Libya (a working name of Route Justice), Refugees in Libya and the European Center for Constitutional and Human Rights (ECCHR) have prepared this briefing note to contribute to more accessible and inclusive proceedings at the ICC, and ensure they are responsive to the experiences and needs of victims.

This briefing draws on direct observations during the El Hishri confirmation of charges hearing, consultations with victims and survivors present at or otherwise engaged in the hearing, and exchanges with Libyan and international CSOs before, during and after the proceedings. It focuses on the experience of affected communities engaging with and attending proceedings at the seat of the Court. The recommendations do not seek to assess the merits of the criminal case, but to identify practical measures through which future ICC proceedings can become safer, more accessible and more responsive to victims and survivors.

WHY CONFIRMATION OF CHARGES HEARINGS MATTER TO VICTIMS AND SURVIVORS

For some victims, survivors, and affected communities, confirmation of charges hearings can represent an important moment of acknowledgment, provide an opportunity for their views and concerns to enter proceedings, strengthen pathways towards accountability, and may even reinforce confidence in justice processes.

> "Seeing Khaled El Hishri standing before the judges of the International Criminal Court restored our hope. Justice has been lost in Libya; the courts have come to serve the interests of militias, and power belongs to those who carry weapons rather than to the law. El Hishri's appearance before the Court at the confirmation of charges hearing

[1] A network of national and international civil society organisations (CSOs) advocating for the rights and interests of victims before the Court

brought relief to our hearts. We are waiting to see him tried for all the crimes he committed and to recover our rights.

On behalf of myself and those who shared this suffering with me, including my companions who remain in the cells of Mitiga Prison and those who lost their lives as a result of torture, I say that the Court represents our last hope. It also sends a message to those who continue to commit crimes that the hand of justice will reach them too, even if it takes time." - Nidal,[2] a survivor of Mitiga prison.

POSITIVE PRACTICES NOTED AT THE EL HISHRI HEARING AND WAYS FORWARD

Several positive practices and improvements based on the lessons learned from the Duterte confirmation of charges hearing, which took place in February 2026, were noted during the El Hishri hearing, all of which were welcomed by Civil Society Organisations. In particular:

- The planning of meetings between the relevant Court organs and CSOs ahead of the hearing;
- The effort of bi-lingual staff who conducted consecutive interpretation into Arabic during the meetings;
- The briefing by a trained ICC therapist on the risks of re-traumatisation during the hearing;
- The continuous presence of a representative from PIOS in the public gallery during the hearings, and;
- The availability of a room on the first day of the hearing for victims and CSO representatives.

At the same time, civil society identified several concerns regarding the accessibility, safe and meaningful participation of survivors and affected communities to the hearing. As underlined by a survivor from Mitiga prison who attended the hearing:

"For survivors, justice is not measured only by whether an accused person stands before judges. It is also measured by whether we can enter the Court without fear, understand what is happening, choose those who represent us, participate with dignity, and leave without being exposed, humiliated, or re-traumatised by unnecessary or insensitive interactions with Court staff.

The El Hishri hearing showed that the ICC can listen, learn, and improve. But survivors must never be treated as spectators in proceedings built upon their suffering. We are

[2] The name was changed to protect the survivor's identity and safety

> rights-holders and partners working towards justice, and every future hearing should be organised with that acknowledgement at its centre." - a survivor of Mitiga prison and spokesperson for Refugees in Libya.

Drawing on these observations, this briefing note outlines practical recommendations aimed at supporting meaningful engagement with the hearing process and enhancing outreach, accessibility, and victim-centered approaches throughout. The recommendations are organized around four themes:

1) Continuing to meaningfully engage with victims, survivors, and civil society ahead of hearings;
2) Ensuring safe, dignified, and trauma-informed access to the hearings at the ICC;
3) Improving victim participation and representation; and
4) Continuing to strengthen victim and witness protection.

1. Continue to meaningfully engage with victims, survivors, and civil society ahead of hearings

CSOs and affected communities had the opportunity to meet with different Court organs before the hearing: the Public Information and Outreach Section (PIOS), the Victims Participation and Reparations Section (VPRS), the Office of the Prosecutor (OTP), and the Office of Public Counsel for Victims (OPCV). These opportunities are essential for facilitating dialogue on any concerns or recommendations related to the confirmation of charges hearings in a safe and confidential setting. While participants welcomed this exchange, they also noted areas where engagement could be strengthened. Some participants underlined that greater recognition of their existing knowledge and expertise would have improved the exchanges. Given the limited time available, time spent re-explaining pre-understood concepts related to the functioning of the ICC reduced the opportunity for participants to raise and engage in more in-depth discussion on issues they considered more pressing or relevant. Because interpretation was consecutive rather than simultaneous, a significant share of the available time was spent on interpretation, further reducing the time for substantive discussion.

To improve future engagement, the Court should:

- Continue the practice of organising pre-hearing meetings involving relevant Court organs, facilitated through PIOS, VPRS, and the Coalition for the ICC (CICC). During these meetings, the Court should continue the good practice of having a briefing by a therapist on what can be expected during the hearing and the risks of re-traumatisation to better prepare affected communities, victims and survivors ahead of the hearings.
- If security permits, organise a similar pre-hearing meeting online, to allow the many victims, survivors and CSOs who supported the case but cannot travel to The Hague to benefit from briefing, ask questions and raise their concerns.

- Ensure that professional interpretation into at least one language spoken by the victims and survivors present is available throughout the meeting, using simultaneous interpretation where feasible.

The Court and CSOs should:

- Ensure that meetings are tailored and responsive to the needs of CSOs and survivors attending the meeting, their knowledge of the case and prior engagements with the Court. Coordination with the CICC is encouraged, to help identify priority topics and enable more substantive and in-depth discussions.
- Ensure that meeting schedules are set and communicated sufficiently in advance to the CICC to allow all participants to attend, in particular for local CSOs traveling for the hearing.

CSOs should:

- Where feasible, consult with victims, survivors and CSOs that have been working on the case but cannot travel to the Hague, in order to get their inputs and questions ahead of the meeting.

2. Ensure safe, dignified, and trauma-informed access to the hearings at the ICC

Similarly to the Duterte confirmation of charges hearing, concerns were raised by CSOs and survivors regarding their experience at the Court's premises and interactions with some security personnel, including in the Public Gallery. They underlined the lack of a trauma-informed approach to the engagement with victims and survivors attending the hearings. For example, a security officer instructed one survivor not to close his eyes while listening to testimony from other victims presented by the OTP. In addition, survivors reported being questioned in an abrupt manner by unidentified individuals within the Court about the purpose of their presence at the ICC. They also noted fears about being seen on live public broadcasts of the proceedings.

Echoing the importance of ensuring victim-centred justice throughout ICC proceedings, Ali Omar, Executive Director of Libya Crimes Watch, said:

> "The confirmation of charges hearing marked an important step towards justice for victims in Libya. As the Court's engagement with affected communities continues, ensuring that proceedings are accessible, understandable, and responsive to victims' experiences is essential. Building on the lessons from this hearing will help strengthen meaningful victim participation and reinforce confidence in international justice."

To improve the experience of victims and survivors attending proceedings, protect their safety and dignity, and avoid re-traumatisation, responsibility should be understood as shared between the Court and organisations which facilitate or support victims' attendance.

To improve future practice, the Court should:

- Develop clear trauma-informed and survivor-centered guidelines on interactions of security personnel with attendees of hearings, noting the potential presence of victims and survivors during the hearing and the importance of ensuring no further harm is caused to them. Ensure those guidelines are known by judges and security personnel and recalled ahead of hearings.
- Establish a designated area within the Public Gallery that is outside the field of view of courtroom cameras, allowing victims, survivors and other at-risk attendees to observe proceedings without being filmed, consistent with the Court's responsibilities regarding the safety, dignity, privacy, and psychological well-being of victims.
- Ensure that all security personnel receive trauma-informed training on engagement with victims, survivors, and affected communities. Ahead of hearings and other proceedings, security personnel should also be reminded that victims and their families may be in attendance and may require special care. Protocol and security sections could also coordinate, where appropriate, with CSOs present, to act as intermediaries to support security personnel's interactions with survivors present in the Public Gallery.
- Continue the good practice of having a member of PIOS present in the gallery with CSOs and survivors during key hearings.
- Develop a short informational video in multiple languages and shown in the Public Gallery before each hearing, presenting:
    - The rules of conduct in the Public Gallery during the hearing, including do's and don'ts.
    - Information on how attendees may respond if they become distressed or emotionally overwhelmed, including reassurance that ordinary emotional reactions should be approached sensitively, while clearly explaining the forms of conduct that may disrupt proceedings or require an attendee to leave the Public Gallery.
    - Expected content and the potential for graphic material and testimonies to prevent inadvertent re-traumatisation.
- Designate a closed private room accessible during key days of the hearings, to CSOs, survivors, victims, and affected communities attending. This space would allow survivors to rest, receive support, or temporarily step away from proceedings when needed. It should be private and secure, with relevant Court staff informed of its availability and purpose.
- Explore the possibility of having an ICC therapist available on call during hearings to support urgent mental health needs of attendees; ideally with proficiency in one or more languages spoken by affected communities, or with interpretation available. This should be accompanied by clear information on the limits of immediate support available at the

Court and by coordination with CSOs to ensure that victims who may require continuing care are linked to longer-term support in their place of residence wherever possible.

- Develop a protocol - similar to the Court's medical security protocol, outlining steps to take when attendees feel distressed or face a mental health crisis within the Court's facilities, who to contact, and which steps to follow. This protocol should be shared in advance with CSOs facilitating victims' attendance so that they can incorporate it into their own preparation and support planning.
- With the support of the CICC and the VRWG, develop a public information document on the safe attendance of victims, their families, human rights defenders, and CSOs at hearings at the Court, which may include information about registration, badging, and security procedures, the documentation required for entry at the Court, the security measures and security risks when attending hearings, and the services available in case of emergency, inside and outside of the Court. This could fall under the purview of the Victims and Witnesses Section (VWS) which would share the document with Legal Representatives for Victims (LRVs) and relevant CSOs.

CSOs facilitating or supporting victims' attendance should follow Women's Initiative for Gender Justice's Survivor engagement protocol in their interactions with victims and survivors, and:

- Ensure that victims, survivors, and affected community members whose attendance they are facilitating are informed in advance, in clear and accessible language, about what to expect when attending hearings at the ICC, including registration, badging, security screening, courtroom rules, the role of Court staff, possible limitations on movement or conduct in the Public Gallery, and the possibility of distressing or graphic content.
- Ensure victims interested in attending the hearing are fully informed, beforehand, about the security risks they may face, in particular the risk of being identified by the media, supporters of the accused, or the accused himself while sitting in the public gallery or walking around the Court premises.
- Discuss with victims beforehand the risk of re-traumatisation and help them make an informed decision about whether and how to attend, including by identifying any specific needs, triggers, concerns, or support preferences.
- Where possible, arrange for a trusted support person to accompany victims during hearing days and to assist them in stepping away from proceedings, accessing a private room, or contacting relevant Court staff if they feel overwhelmed.
- Identify in advance available urgent support options in the Netherlands, including relevant healthcare or mental health services, and ensure victims know what support can realistically be accessed during their stay.
- Prioritise continuity of care by facilitating, wherever possible, access to longer-term psychological or psychosocial support in victims' place of residence before and after the hearing, recognising that one-off support on the day of a hearing is necessarily limited.

- Coordinate with PIOS, VWS, VPRS, LRVs, and other relevant Court actors, as appropriate, to ensure that information shared with victims is accurate, consistent, and tailored to their needs, while preserving confidentiality and victims' agency.

3. Improve victim participation and representation

The PTC gave significant weight to victims' security considerations in its decision on victims' participation and legal representation at the pre-trial stage, including in light of the proximity of the confirmation hearing and the need to ensure proceedings could move forward safely and efficiently. It also reserved for a later stage any decision on the nomination of (a) common legal representative(s) for victims and designated the OPCV to represent all participating victims in the case, making clear that its approach applied to the pre-trial phase.

CSOs and affected communities expressed concerns that this temporary arrangement limited the role of victims' lawyers of choice, including lawyers who had built long-standing relationships of trust with victims over the years and accompanied them in their engagement with the OTP. While the OPCV maintained regular contact with those lawyers and, through this contact, gathered information to convey victims' views and concerns, some victims nevertheless considered that the reduced ability of their trusted lawyers to participate directly in the proceedings impacted their sense of ownership, trust, and meaningful participation in the confirmation of charges hearing. It also had a practical impact on some victims' counsel's ability to file submissions on behalf of their clients.

These concerns should be understood not as overlooking the Chamber's security and efficiency considerations, but as highlighting the need for future procedural arrangements to preserve, wherever possible, victims' agency and access to trusted legal representation. This is particularly important where, as in the El Hishri case, the relevant Court organs had ample time to prepare for victim legal representation and had, indeed, initiated consultations on common legal representation in collaboration with relevant CSOs and potential external counsel well in advance of the confirmation of charges hearing. Nevertheless, the process was not completed in time for external counsel to be appointed for the confirmation proceedings.

Moreover, the El Hishri proceedings also raised broader concerns about the limited representation within ICC proceedings of lawyers from situation countries and affected countries, including counsel with relevant linguistic, cultural and contextual expertise. Just as interpretation and translation into Arabic and other languages spoken and understood by affected communities are essential components of a victim-centred approach, meaningful efforts should also be made to ensure that qualified counsel from situation countries are able to enter the ICC List of Counsel and participate effectively in proceedings.

To strengthen victim participation, the Court should:

- Where security, efficiency, and the interests of justice permit, ensure that victims are meaningfully consulted, including through their existing legal representatives where appropriate, regarding how their views and concerns will be presented before the Court,

including on arrangements for legal representation at each procedural stage. Such consultations should recognise victims and affected communities as rights-holders, and should take into account the trust built over time with lawyers who have accompanied them in their engagement with the Court.

- When possible and in line with Rule 90 of the Rules of Procedure and Evidence (RPE), ensure that the process for establishing common legal representation begins sufficiently early to take into account victims' preferences, existing relationships of trust, relevant expertise, security considerations, and any potential conflicts of interest, so that different groups of victims can be represented in a manner that is both procedurally efficient and responsive to victims' views, concerns, security needs, and sense of agency.
- Continue deploying strategies to enhance diverse representation of lawyers from across regions in the list of ICC counsel and ensure lawyers from the countries affected by the crimes, with the relevant legal, linguistic, and contextual expertise and meeting the criteria for eligibility, can represent victims. Continue developing tailored outreach campaigns where there are gaps, including for Arabic-speaking lawyers.

4. Continue to strengthen victim and witness protection

In the context of political instability in Libya and continued and escalating human rights abuses, which may affect the future safety of victims and witnesses cooperating with the Court, the ICC should:

- Continue to engage proactively with States Parties to enhance their cooperation on witness and victim protection and their support to the Court and the VWS in relocating witnesses and victims at risk within their territories.
- Where victims and witnesses face serious protection risks, continue to work with States Parties to ensure that relocation and protection arrangements take account not only of immediate physical safety but also of secure immigration status, family unity, access to healthcare and psychosocial support, and the conditions necessary for long-term safety.
- Strengthen digital-security assessments and support for victims, witnesses and human rights defenders engaging with the Court, particularly where their communications, devices, identities or locations may expose them or their families to retaliation.
- Continue to engage proactively with civil society, including Libyan CSOs as well as CSOs working with specific categories of victims, notably migrants and refugees, to stay informed of political developments, new abuses, and their impact within the country and diaspora.

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