

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

**No. ICC-01/11-01/25
Date: 16 February 2026**

PRE-TRIAL CHAMBER I

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

SITUATION IN LIBYA

THE PROSECUTOR V. KHALED MOHAMED ALI EL HISHRI

Public

Order on further matters related to the conduct of confirmation proceedings

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

☒ The Office of the Prosecutor

☒ Counsel for the Defence

☐ Legal Representatives of the Victims

☐ Legal Representatives of the Applicants

☐ Unrepresented Victims

☐ Unrepresented Applicants
(Participation/Reparation)

☒ The Office of Public Counsel for Victims

☐ The Office of Public Counsel for the
Defence

☐ States' Representatives

☐ Amicus Curiae

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and Reparations
Section

☐ Other

PRE-TRIAL CHAMBER I (the ‘Chamber’) of the International Criminal Court (the ‘Court’), issues the present order on further matters related to the conduct of confirmation of charges proceedings.

1. On 3 December 2025, during the initial appearance of Mr Khaled Mohamed Ali El Hishri (‘Mr El Hishri’),¹ the Chamber set the commencement of the confirmation of charges hearing on 19 May 2026.

2. During Mr El Hishri’s initial appearance and subsequent status conference,² the Chamber issued a number of directions on various matters related to the conduct of the confirmation of charges proceedings. The Chamber considers it appropriate to issue further directions in order to ensure the orderly conduct of the proceedings before the confirmation of charges hearing, as set out below.

I. Document containing the charges and pre-confirmation brief

3. The Chamber, noting article 61(3)(a) of the Rome Statute (the ‘Statute’), rule 121(3) of the Rules of Procedure and Evidence (the ‘Rules’) and regulations 38(3)(g) and 52 of the Regulations of the Court (the ‘Regulations’), issues the following directives regarding the Document containing the charges (‘DCC’).

4. First, the Chamber notes that regulation 52(1) of the Regulations, as amended on 21 October 2024, provides that:

The document containing the charges referred to in article 61 shall contain only:

- (a) The full name of the person and any other relevant identifying information;
- (b) A statement of the facts, including the time and place of the alleged crimes, which provides a sufficient legal and factual basis to bring the person or persons to trial, including relevant facts for the exercise of jurisdiction by the Court;
- (c) A legal characterisation of the facts to accord both with the crimes under articles 6, 7, 8 or 8 bis and the precise form of participation under articles 25 and 28.

5. As a result of the addition of the words ‘contain only’ in the chapeau of regulation 52(1) of the Regulations and the insertion of sub-regulation 2 in the same provision, a DCC must be limited to the essential factual and legal elements of the charges that the Prosecution is requesting the Chamber to confirm as the basis for a potential trial against a suspect.

¹ Transcript of hearing, ICC-1/11-01/25-T-001-ENG, p. 7.

² Transcript of hearing, 3 December 2025, ICC-1/11-01/25-T-001-ENG, pp. 7-9; Transcript of hearing, 28 January 2026, ICC-01/11-01/25-T-002-ENG, pp. 13-15, 19-21.

6. In order for the DCC to be fully informative for the Defence in its preparation and the Chamber for the drafting of the decision pursuant to article 61(7) of the Statute, the Prosecution's DCC, due on **26 March 2026**,³ shall set out the relevant factual and legal elements in relation to (1) the alleged contextual elements; (2) each alleged crime and alleged instance of an underlying crime; and (3) each alleged mode of liability. For each subject, the Prosecution shall indicate, to the extent applicable, (i) the alleged perpetrators and/or other relevant actors; (ii) the alleged conduct and/or consequences; (iii) the alleged location of the alleged crime or related conduct; (iv) the alleged time-frame(s) of the alleged crime and/or related conduct; (v) the alleged (approximate) number and identity of victims, depending on the nature of the alleged crime; (vi) the alleged mental state of Mr El Hishri and/or other relevant actors; (vii) any other essential factual aspect pertaining to the constitutive legal elements of the proposed charge; and (viii) their legal characterisation.

7. The DCC shall employ a narrative style, with the relevant factual assertions presented in a logical and chronological sequence, and shall not contain factual or legal assertions that either exceed the elements enumerated in the preceding paragraph, or are not relevant to support the legal elements of the crimes the Prosecution proposes to have confirmed.

8. Second, the amended version of regulation 52(2) of the Regulations states that:

[t]he document containing the charges shall not contain any submissions or references to, or analysis of, evidence. All such material in support of the charges shall be presented in a separate pre-confirmation brief to be submitted simultaneously.

9. Consequently, the Prosecution shall, together with the DCC, submit its Pre-confirmation brief ('PCB'), also due on **26 March 2026**,⁴ to set out its factual and legal arguments in support of the proposed charges, as well as the evidence it relies upon. The purpose of the PCB is to substantiate the specific factual and legal elements of the proposed charges in the DCC.

10. The PCB shall therefore mirror the structure of the DCC by reproducing the paragraphs included in the DCC in bold font, followed by one or several explanatory paragraphs in regular font, setting out at least the following elements: (i) a detailed explanation of the evidentiary items that, in the Prosecution's view, supports each separate assertion, with the relevant items hyperlinked in the corresponding footnote; (ii) any factual or legal assertions that either exceed the elements to be set out in the DCC as specified above, or do not directly support the legal

³ Transcript of hearing, 28 January 2026, ICC-1/11-01/25-T-002-ENG, p. 14.

⁴ Transcript of hearing, 28 January 2026, ICC-1/11-01/25-T-002-ENG, p. 14.

elements of the crimes the Prosecution proposed for confirmation, but are, in the Prosecution's view, nonetheless necessary to properly set out its case; and (iii) any legal submissions in connection with the legal characterisation of each alleged instance of an underlying crime, including the relevant contextual elements, and each alleged mode of liability. The Prosecution is to specify which evidentiary items support each mode of liability and refrain from making general references to a body of evidence that supports one mode of liability to prove another.

11. Pursuant to regulation 38 of the Regulations,⁵ the DCC shall not exceed 30 pages, while the PCB shall not exceed 120 pages. In addition, the Chamber orders the Prosecution to ensure that the list of evidence to be submitted pursuant to rule 121(3) of the Rules does not exceed 60 pages and only contains the evidentiary items referenced in the PCB.

12. The Chamber notes the Prosecution's request to append victims' lists to the PCB in the form of tables, per crime, listing victims' names, alternative spellings, and references to the exhibits, which would not count towards the page limit.⁶ Considering the usefulness of this consolidated information in past cases and its non-argumentative nature, the Chamber authorises the Prosecution to append such annexes to the PCB, on an *ex parte* basis as appropriate,⁷ with a redacted version thereof being made available to the Defence.

II. Matters arising from the DCC

13. The parties and, to the extent applicable, participants shall bring any challenge to the DCC or any other matter arising from the DCC to the attention of the Chamber by way of a formal filing by no later than **16 April 2026**. Following the expiry of this time limit, the Chamber shall not entertain any matter pertaining to the DCC, unless the party or, to the extent applicable, participant establishes that the relevant matter arose only after the expiry of the aforementioned time limit and could not have been reasonably brought to the Chamber's attention prior thereto.

⁵ See also Transcript of hearing, 28 January 2026, ICC-1/11-01/25-T-002-ENG, p. 14.

⁶ E-mail from the Prosecution on 11 February 2026, at 14:05. The Legal Representatives of Victims 'fully support' the request, see e-mail on 12 February 2026, at 9:48. The Defence did not respond within the shortened deadline set by the Chamber, see e-mail on 11 February 2026, at 15:41.

⁷ See Prosecution's request for authorisation to withhold the identity of witnesses P- 0342, P-0497, P-0670, P-0719, P-0925, P-0943, and P-1031 upon whose evidence the Prosecution will rely at the confirmation hearing, 21 January 2026, ICC-01/11-01/25-55-Conf-Exp; Prosecution's request for authorisation to withhold the identity of witnesses P- 0568, P-0635, P-0644, P-0872 and P-1046 upon whose evidence the Prosecution will rely at the confirmation hearing, 26 January 2026, ICC-01/11-01/25-58-Conf-Exp; Prosecution's request for authorisation to withhold the identity of witnesses P-0054, P-0439, P-0551, P-0650 and P-0665 upon whose evidence the Prosecution will rely at the confirmation hearing, 26 January 2026, ICC-01/11-01/25-59-Conf-Exp.

III. Amendment of charges and new evidence

14. Rule 121(4) of the Rules provides that, should the Prosecution intend to amend the charges pursuant to article 61(4) of the Statute, it shall do so no later than 15 days before the confirmation of charges hearing. Pursuant to rule 121(5) of the Rules, if the Prosecution intends to present new evidence at the confirmation of charges hearing, it must provide a list of such evidence within the same time limit.

15. As this time limit is indicative,⁸ in order to allow for adequate preparation by the parties and participants, the Chamber instructs the Prosecution to take any steps pursuant to rule 121(4) and (5) of the Rules by no later than **16 April 2026**.

IV. Other matters arising from the proceedings preceding the confirmation hearing

16. Any requests pertaining to any matter arising from the proceedings leading up to the confirmation of charges hearing, other than those indicated above, shall be submitted by no later than **16 April 2026**, without prejudice to the submission of any objections and observations pursuant to rule 122(3) of the Rules, as set out below.

17. Following the expiry of this time limit, the Chamber shall not entertain any matters arising from the proceedings leading up to the confirmation of charges hearing, unless the party or, to the extent applicable, participant establishes that the relevant matter arose only after the expiry of the aforementioned time limit and could not have been reasonably brought to the Chamber's attention prior thereto. The Chamber will assess, on a case-by-case basis, whether such requests will be adjudicated by way of a separate decision or in its decision on the confirmation of charges under article 61(7) of the Statute.

V. Abridged version of the DCC

18. In light of the limited time available during the confirmation of charges hearing, as well as for the purposes of clarity, the Chamber instructs the Prosecution to provide an abridged version of the DCC to be read out in public session by the Court Officer at the start of the confirmation of charges hearing in accordance with rule 122(1) of the Rules. The document should be apt to be read out within a reasonable time with the aim of informing the public of the charges brought by the Prosecution against the suspect. The abridged version should therefore employ a narrative style that focuses on the alleged criminal conduct, with less

⁸ See e.g. Pre-Trial Chamber I, *The Prosecutor v. Rodrigo Roa Duterte*, Order on the conduct of confirmation proceedings, 17 April 2025, ICC-01/21-01/25-114, para. 44.

emphasis to be placed on the corresponding legal qualification. Repetition and unnecessary technical language should be avoided as much as possible.

19. Should the Defence object to having an abridged version of the DCC, as opposed to the full text of the charges, read out at the confirmation of charges hearing, it shall so indicate by no later than **27 April 2026** by way of email. Absent any indication from the Defence to this effect, the Prosecution shall submit the abridged version of the DCC to the Chamber by way of email by no later than **1 May 2026**.

VI. Objections and observations pursuant to rule 122(3) of the Rules

20. The Chamber recalls that rule 122(3) of the Rules provides an opportunity for raising issues or objections that could not have reasonably been brought to the Chamber's attention in the course of the proceedings preceding the confirmation of charges hearing. The parties shall, therefore, refrain from repeating or reformulating previous submissions, raising matters that have already been adjudicated, or raising issues for which a remedy could have been sought previously within the time limits set by the Chamber.

21. The Chamber instructs the parties to provide any submissions pursuant to rule 122(3) of the Rules by way of formal filing, at the earliest opportunity, and by no later than **12 May 2026**.

Done in English. A French translation will follow. The English version remains authoritative.



Judge Iulia Antoanella Motoc, Presiding



**Judge Reine Adélaïde Sophie Alapini-
Gansou**



**Judge María del Socorro Flores
Liera**

Dated this Monday, 16 February 2026

At The Hague, The Netherlands