

**Cour
Pénale
Internationale**

**International
Criminal
Court**



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No.: ICC-01/11-01/25

Date: 1 May 2026

PRE-TRIAL CHAMBER I

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

**SITUATION IN LIBYA
IN THE CASE OF
*THE PROSECUTOR v. KHALED MOHAMED ALI EL HISHRI***

Public

**Joint Prosecution and Defence submissions on residual issues ahead of the
confirmation hearing**

Source: Office of the Prosecutor
Defence of Mr Khaled Mohamed Ali El Hishri

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

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☒ 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

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M. Zavala Giler, Osvaldo

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Reparations Section

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A. INTRODUCTION

1. On 14 April 2026, the Chamber instructed the Prosecution and the Defence (the “Parties”) to consult and file joint observations, “notably on any residual issues to be raised and discussed ahead of the confirmation hearing”.¹ Upon receipt of these observations, the Chamber will decide on the need to convene a status conference prior to the confirmation hearing.

2. On 29 April 2026, the Parties met to discuss the preparation for the confirmation hearing and any issues that may need to be raised with the Chamber, including procedures related to the anticipated Defence challenge to jurisdiction and admissibility.

B. SUBMISSIONS

3. The Parties met and discussed the upcoming litigation on specific topics as well as the preparations for their respective presentations in the confirmation hearing. Considering that legal issues are being dealt with via written submissions and the preparations for the confirmation hearing are on track, the Parties do not anticipate that any issues need to be raised with the Chamber at this time. As such, the Parties do not envisage the need for a status conference in advance of the confirmation hearing, subject to the Chamber’s final decision in that regard.

Upcoming litigation

4. In accordance with the Chamber’s instructions,² on 28 April 2026 the Defence filed its observations on the Document Containing the Charges.³ The Prosecution intends to respond to this submission in writing within the five days’ time limit set by

¹ E-mail from the Pre-Trial Chamber I titled “[ICC-01/11-01/25 – Public] Order related to the conduct of the proceedings”, 14/04/2026 13:56h.

² Order on further matters related to the conduct of confirmation proceedings, [ICC-01/11-01/25-66](#), para. 13. E-mail from the Pre-Trial Chamber I titled “[ICC-01/11-01/25 – Public] Order related to the conduct of the proceedings”, 14/04/2026 13:56h. E-mail from the Pre-Trial Chamber I titled “[ICC-01/11-01/25 – Public] Order on the the Defence request for variation of time limit”, 28/04/2026 17:15h.

³ Defence written notes and observations relating to factual and legal elements of the Prosecution’s case against Mr Khaled Mohamed Ali El Hishri, [ICC-01/11-01/25-107-Conf](#).

the Chamber.⁴ If necessary, the Defence will file a request for leave to reply to the response shortly thereafter.

5. On 30 April 2026, the Defence filed a challenge to jurisdiction⁵ as discussed during the second status conference.⁶ The Defence will not file a challenge to admissibility at this time, without prejudice to a later application. The Prosecution respectfully requests that the Chamber, in its decision pursuant to rules 58(2) and (3) of the Rules of Procedure and Evidence, allows it to submit written observations on the jurisdiction challenge within no less than 30 days.⁷ This period of time is necessary to address the factual and legal arguments in the Defence requests.

6. The Prosecution maintains its request that the time for its response starts to run only after the end of the confirmation hearing, in order not to derail preparation for its upcoming presentations.⁸ The Defence does not oppose this request, nor the request for 30 days to respond, and leaves the question to the determination of the PTC. If accepted, the deadline for the Prosecution's response would fall on 22 June 2026.

7. The Parties jointly submit that the same deadline of 30 days should be applicable to any submissions from the United Nations Security Council ("UNSC") as the referring entity⁹ and the State of Libya ("Libya"), which we respectfully suggest should be afforded the opportunity to provide observations given that the validity of its article 12(3) Declaration¹⁰ is being challenged.¹¹

⁴ Transcript of Second Status Conference, [ICC-01/11-01/25-T-003-CONF-ENG](#), p. 17.

⁵ Defence Challenge to Jurisdiction of the International Criminal Court Pursuant to Article 19 of the Rome Statute ("Jurisdictional challenge"), [ICC-01/11-01/25-108-Conf](#).

⁶ Transcript of Second Status Conference, [ICC-01/11-01/25-T-003-CONF-ENG](#), p. 16.

⁷ See *Duterte* Order setting time limits for observations in relation to the 'Defence Challenge with Respect to Jurisdiction' (ICC-01/21-01/25-121), [ICC-01/21-01/25-128](#). *Kushayb* Order setting time limits for submissions in relation to the Defence *Exception d'incompétence* (ICC-02/05-01/20-302), [ICC-02/05-01/20-321](#).

⁸ Transcript of Second Status Conference, [ICC-01/11-01/25-T-003-CONF-ENG](#), p. 10-12. During the second status conference, the OPCV made the same request in terms of the timing of its response.

⁹ *Kushayb* Order setting time limits for submissions in relation to the Defence *Exception d'incompétence* (ICC-02/05-01/20-302), [ICC-02/05-01/20-321](#), para. 5.

¹⁰ Annex II to the Transmission of Article 12(3) Declaration by the State of Libya, [ICC-01/11-01/25-6-AnxII-Red](#).

¹¹ [Jurisdictional challenge](#), paras. 12-36.

8. The Parties further request that they be allowed to file written observations on the issues raised by the UNSC and/or Libya within a reasonable time as determined by the Chamber.

The Confirmation Hearing

9. The Parties confirm that consultations are underway with the courtroom officer in order to prepare for the confirmation hearing presentations.¹²

10. The Parties take note of the Chamber's authorisation for Defence Counsel to address the Court in Arabic during the confirmation hearing.¹³ The Prosecution also requests authorisation to address the Court in Arabic for part of its presentation, pending final confirmation that it will do so.

11. The Defence does not anticipate, at present, that Mr El Hishri will make an unsworn statement as part of the Defence's presentation.

C. CONCLUSION

12. The Prosecution and Defence respectfully request the Chamber to consider these submissions.



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¹² Order setting the schedule and directions for the confirmation of charges hearing ("Order on the directions for the confirmation of charges hearing"), [ICC-01/11-01/25-106](#), para. 7.

¹³ [Order on the directions for the confirmation of charges hearing](#), para. 8.

Dated this 1st day of May 2026
At The Hague, The Netherlands