

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 25 August 2026

TRIAL CHAMBER VII

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

SITUATION IN LIBYA

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

Public

**With Annex I Confidential *ex parte* available only to the Registry and the
Prosecution, and
Annex II Confidential *ex parte*, available only to the Registry , and Public
Redacted version of Annex II**

**Registry Submissions pursuant to the “Order Scheduling the First Status
Conference” (ICC-01/11-01/25-157)**

Source: Registry

Document 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

M. Zavala Giler, Osvaldo

☒ Counsel Support Section

☒ Victims and Witnesses Unit

☒ Detention Section

☒ Victims Participation and
Reparations Section

☐ Other

I. Introduction

1. On 27 July 2026, Trial Chamber VII (“Chamber”) issued its “Order Scheduling the First Status Conference”¹ (“Order”) in which it, *inter alia*, invited the Registry to provide observations on the “[L]anguages to be used by the parties, participants, and the witnesses whom the parties intend to call [..], protective measures for witnesses (including additional need for redactions, delayed disclosure or referrals to the Court’s witness protection programme)”; and an “[U]pdate and forecast on (additional) applications by victims to participate in the proceedings and updated report and recommendation on the legal representation of victims”, by 25 August 2026. In accordance with the Order, the Registry submits the present observations.

III. Classification

2. Pursuant to regulation 23 *bis*(1) of the Regulations of the Court, (“ROC”) the present submissions are classified as public. Annex I is submitted as confidential *ex parte* only available to the Registry and the Prosecution as it refers to Victims and Witnesses Unit’s (“VWU” or “Unit”) internal operations and contains sensitive information pertaining to the security of Prosecution witnesses. Annex II is submitted as confidential *ex parte*, available only to the Registry, as it contains sensitive information concerning the safety and security of victims, as well as information on interlocutors with whom the Registry is in contact. A Public Redacted version is filed concomitantly.

VI. Applicable law

3. The following provisions are of particular relevance to the present submissions: articles 43, 50, 67(1)(a), 68, 87(2) of the Rome Statute (“Statute”),

¹ICC-01/11-01/25-157, 28 July 2026.

rules 16 to 19, 87 and 88 of the Rules of Procedure and Evidence (“Rules”), regulations 39(1), 40, 41 of the RoC, and regulations 57(1), 58(3), 61, 66, 67, 68(4), 69, 80 to 96 of the Regulations of the Registry (“RoR”).

V. Submissions

4. The present submissions are structured in accordance with, and address in turn, the three Registry matters identified in the Order namely:
 - a. Languages: the languages to be used by the parties, participants, and witnesses whom the parties intend to call;
 - b. Protective measures for witnesses: the protective measures required for witnesses, including any additional need for redactions, delayed disclosure or referrals to the Court’s witness protection programme ; and
 - c. Victims’ participation and legal representation: an update and forecast on (additional) applications by victims to participate in the proceedings, other observations relevant to the participation of victims at trial, together with an updated report on the legal representation of victims.

A. Languages

5. The Registry Language Services Section will provide simultaneous interpretation between Arabic, English and French. Should the parties or participants require interpretation from or into any other language, sufficient notice will be required to allow suitable arrangements to be made for the hearings for which such interpretation services are needed. For some languages, in particular languages of lesser diffusion, it may be necessary to resort to consecutive interpretation.

B. Protective measures for witnesses

6. Pursuant to articles 68(4) and 43(6) of the Statute, the VWU provides its assessment and recommendations to the Chamber on the security and related in-court protection measures that witnesses may require, in accordance with rule 87 of the Rules and regulation 94 of the RoR.
7. Additionally, the Unit may implement non-procedural protective measures. These measures depend on the level of risk faced by the witness concerned and range from the implementation of good practices to the set-up of an Initial Response System ("IRS"), an assisted move, an internal resettlement within the relevant country, or international relocation. Both internal resettlement and international relocation require the inclusion of witnesses into the Court's protection program ("ICCPP"). In cases of international relocation, the Court relies on the cooperation of partner States that have either signed a relocation agreement with the Registry or accepted to relocate witnesses within their territory on an *ad hoc* basis.
8. The admission of a witness in the ICCPP is a voluntary measure of last resort. Considering the extremely heavy impact that inclusion in the ICCPP has on the life of a person and his family members, the VWU always aims to strike a balance between the intrusiveness of the protection measure and the risk and/or threat that the individual may face. This measure is only applied where no other alternative protection measure exists and where a person is considered to be severely at risk. Inclusion in the ICCPP also requires that the person be assessed as suitable for the program from a psychological perspective.

Protection referrals

9. The Unit encourages the parties and participants to follow the procedure established in regulations 80(1) and 96(2) of the RoR for any issues concerning the protection of witnesses and victims, including referrals to the ICCPP or other forms of protection. Upon receipt of a referral for protection, the Unit

performs a threat and risk assessment of the security situation of the referred individual. For the purposes of assessing and recommending appropriate protective measures, the VWU would like to stress that it is essential that the parties provide the Unit with specific information on the nature of the threat or risk to which the individual may be exposed. The Unit remains available to assist the parties in this regard and to provide them with a protection referral form to facilitate any such request.

10. Finally, for the full information of the Chamber, case-related information is provided in Annex I to the present submissions on an *ex parte* basis, available only to the Prosecution, due to the sensitivity and nature of the information.

Protocols

11. The Registry takes the opportunity of the present submissions to recommend, subject to the decision of the Chamber, the adoption of a "Protocol on the practices used to prepare and familiarise witnesses for giving testimony at trial" ("Familiarisation Protocol"), which outlines procedures that serve the best interests of witnesses and provides sustainable working solutions for all entities involved.
12. In 2008, pursuant to Trial Chamber I's decisions in *The Prosecutor v. Thomas Lubanga Dyilo* ("Lubanga case")², the Registry submitted a set of practices for preparing and familiarising witnesses prior to their testimony at trial.³ These practices became known as the Familiarisation Protocol, which has since been refined and adopted by various Chambers of the Court in the *Katanga*⁴,

² Trial Chamber I, "Decision Regarding the Practices Used to Prepare and Familiarise Witnesses for Giving Testimony at Trial", ICC-01/04-01/06-1049, 30 November 2007; Trial Chamber I, "Decision on various issues related to witnesses' testimony during trial", ICC-01/04-01/06-1140, 29 January 2008; Trial Chamber I, "Decision regarding the Protocol on the practices to be used to prepare witnesses for trial.", ICC-01/04-01/06-1351, 23 May 2008.

³ Registry, "Victims and Witnesses Unit protocol on the practices used to prepare and familiarise witnesses for giving testimony at trial", ICC-01/04-01/06-1150-Conf, 30 January 2008; Registry, "Victims and Witnesses Unit report on practices used to prepare and familiarise witnesses for giving testimony at trial", ICC-01/04-01/06-1578, 31 December 2008.

⁴ICC-01/04-01/07-842-Conf-Anx.

*Bemba*⁵, *Bemba et al.*⁶, *Ruto et al.*⁷, *Kenyatta*⁸, *Gbagbo and Blé Goudé*⁹, *Al Mahdi*¹⁰, *Ntaganda*¹¹, *Al Hassan*¹², *Said*¹³, *Yekatom and Ngaïssona*¹⁴ and *Abd-Al-Rahman* case.¹⁵

13. The Familiarisation Protocol addresses key aspects of the witness familiarisation process, drawing on the Court's experience with witnesses. It includes guidance on matters relating to, *inter alia*, the preparation of witnesses for travel in the field, arrangements for witnesses falling under the scope of rule 74 of the Rules, and courtroom familiarisation. 14. The Unit informs the Chamber that two different types of Familiarisation Protocols have been adopted, namely in the event where a Witness Preparation Protocol is adopted and where no such Protocol is adopted. Specifically, in the absence of a Witness Preparation Protocol, the VWU conducts the statement-reading exercise with the respective witnesses. 15. Subject to the approach chosen by the Chamber in the present case, the VWU recommends the adoption of the latest version of one of the two types of Familiarisation Protocols: either the version adopted in the *Yekatom and Ngaïssona* case¹⁶ or, should a Witness Preparation Protocol be adopted, the version adopted in the *Said* case.¹⁷ Such

⁵ICC-01/05-01/08-1081-Anx.

⁶ICC-01/05-01/13-1252-Anx.

⁷ICC-01/09-01/11-704-Anx.

⁸ICC-01/09-02/11-727-Anx.

⁹ICC-02/11-01/15-355-Anx.

¹⁰ICC-01/12-01/15-136-Anx.

¹¹ICC-01/04-02/06-656-AnxA.

¹²ICC-01/12-01/18-705-AnxI.

¹³ICC-01/14-01/21-446-AnxI.

¹⁴ICC-01/14-01/18-677-AnxI.

¹⁵ICC-02/05-01/20-688-AnxI.

¹⁶ Trial Chamber V, "Decision on Protocols at Trial", ICC-01/14-01/18-677, 8 October 2020. In the *Yekatom and Ngaïssona* Case, the Chamber adopted the Familiarisation Protocol previously used in the *Ongwen* Case, which was itself based on the Familiarisation Protocols adopted in the *Gbagbo and Blé Goudé* Case and the *Bemba et al.* Case.

¹⁷ Registry, "Registry's Submissions of the Protocol on the practices to be used to familiarise witnesses for giving testimony at trial and of the Protocol on the vulnerability assessment and support procedure used to facilitate the testimony of vulnerable witnesses", ICC-01/14-01/21- 446, 9 August 2022; Trial Chamber VI, "Decision on the Adoption of Two Witness-Related Protocols", ICC-01/14-01/21-468, 2 September 2022. In the *Said* Case, the Chamber adopted a Familiarisation Protocol similar to those adopted in the *Ar Rahman* Case and *Al Hassan* Case, which themselves constituted

an approach would promote a uniform practice in the management of witnesses appearing before the Court.

14. The Unit stands ready to file the appropriate type of Familiarisation Protocol in the record of the case upon the Chamber's order. 17. Lastly, in accordance with rule 88 of the Rules, the Unit informs the Chamber that it will provide its assessment on the need for special measures to be implemented for the benefit of potentially vulnerable witnesses. In this regard, the VWU refers to the "Protocol on the vulnerability assessment and support procedure used to facilitate the testimony of vulnerable witnesses" ("Vulnerability Protocol"), which was adopted in the *Bemba*¹⁸, *Ntaganda*¹⁹, *Gbagbo and Blé Goudé*²⁰, *Abd-Al-Rahman*²¹ and *Said* case.²² These are the unique versions of the Vulnerability Protocol adopted before the Court. Therefore, in order to maintain a uniform practice, the VWU would recommend, should the Chamber deem it necessary, the adoption of the same protocol in the present case in line with the Chamber's Practice Manual.²³ Lastly, in the event the parties and participants want to call dual status witnesses, the Registry recommends the adoption of the Dual Status Witness Protocol. The most recent version filed in the case of *The Prosecutor vs. Khaled Mohamed Ali El Hishri*²⁴ was circulated to the parties and participants in the case of *The Prosecutor vs. Rodrigo Roa Duterte*²⁵ and was agreed upon by the parties and participants with some amendments.²⁶

slightly amended versions of the Familiarisation Protocol previously adopted in the Ntaganda Case, Ruto et al. Case, and Kenyatta Case.

¹⁸ICC-01/05-01/08-974-Anx2.

¹⁹ICC-01/04-02/06-445-Anx1.

²⁰ICC-02/11-01/15-357.

²¹ICC-02/05-01/20-688-AnxII.

²²ICC-01/14-01/21- 446-AnxII.

²³ ICC, Chamber's Practice Manual, 21 October 2024 [Chambers Practice Manual - Eighth edition](#).

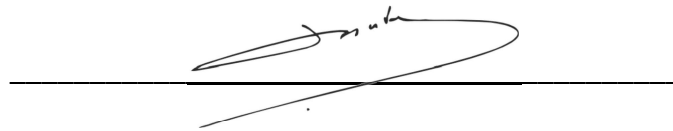
²⁴ Registry, "Registry Submission of the Dual Status Witness Protocol", ICC-01/11-01/25-63-Anx, 30 January 2026.

²⁵ Registry, "Registry Submission of the Witness Preparation, Familiarisation, Vulnerability, Dual Status Witness and Redactions Protocols", ICC-01/21-01/25-464, 15 June 2026.

²⁶ Trial Chamber III, "Directions on the conduct of proceedings", ICC-01/21-01/25-471, 19 June 2026.

C. Update and forecast on (additional) applications by victims to participate in the proceedings, other observations relevant to the participation of victims at trial and updated report on the legal representation of victims

15. The Registry submits in Annex II observations linked to victim participation issues, including: (i) an update and forecast regarding victim applications in the Case; (ii) other observations related to victim participation at trial; and (iii) an updated report on the legal representation of victims in the proceedings.

A handwritten signature in black ink, appearing to read 'Marc Dubuisson', is written over a horizontal line.

Marc Dubuisson
Director, Division of Judicial Services on behalf of
Osvaldo Zavala Giler, Registrar

Dated this 25 August 2026

At The Hague, The Netherlands