

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

**No.: ICC-01/11-01/25
Date: 14 September 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

Decision Setting the Commencement Date of the Trial

Decision 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**

TRIAL CHAMBER VII (the ‘Chamber’) of the International Criminal Court (the ‘Court’), in the case of *The Prosecutor v. Khaled Mohamed Ali El Hishri*, having regard to Article 64(3) of the Rome Statute (the ‘Statute’) and Rules 101 and 132(1) of the Rules of Procedure and Evidence (the ‘Rules’), issues this ‘Decision Setting the Commencement Date of the Trial’.

1. On 3 September 2026, the Chamber, after having received written submissions from the Prosecution, the Defence, the Office of Public Counsel for Victims (the ‘OPCV’) and the Registry,¹ held a status conference, including an *ex parte* session with the Prosecution and the Victims and Witnesses Unit (‘the VWU’) only, in order to discuss, *inter alia*, the commencement date of the trial and the deadlines leading up to it (the ‘Status Conference’).²

2. The present decision sets the aforementioned dates. The Chamber will address each part of the calendar in chronological order. Directions and deadlines concerning, *inter alia*, victim participation and agreed facts will be addressed in the upcoming Directions on the Conduct of Proceedings.

A. Provisional lists of Prosecution Witnesses and Evidence

3. The Chamber notes the Prosecution’s proposal to provide a provisional list of witnesses (the ‘Provisional List of Prosecution Witnesses’) and a provisional list of evidence (the ‘Provisional List of Prosecution Evidence’) in the lead up to the start of the trial. The Prosecution proposes a deadline of 4 January 2027 to file these lists,³

¹ Joint Prosecution and Defence submissions pursuant to the “Order scheduling first status conference”, ICC-01/11-01/25-169 (the ‘Joint Submissions’); Submissions on behalf of Victims on the matters identified in the “Order Scheduling the First Status Conference” (No. ICC-01/11-01/25-157), ICC-01/11-01/25-170 (the ‘OPCV’s Written Submissions’); Registry Submissions pursuant to the “Order Scheduling the First Status Conference” (ICC-01/11-01/25-157), ICC-01/11-01/25-171 (with Annex I, a confidential *ex parte* annex available to the Registry and the Prosecution only, and Annex II, a confidential *ex parte* annex available to the Registry only, accompanied by a public redacted version) (the ‘Registry’s Written Submissions’); Defence supplementary submissions pursuant to the “Order scheduling first status conference”, ICC-01/11-01/25-172 (the ‘Defence’s Written Submissions’); Prosecution’s submissions pursuant to the “Order scheduling first status conference”, ICC-01/11-01/25-173-Conf (a public redacted version was notified on 26 August 2026, ICC-01/11-01/25-173-Red) (the ‘Prosecution’s Written Submissions’).

² Transcripts of hearing, [ICC-01/11-01/25-T-007-ENG](#); ICC-01/11-01/25-T-008-CONF-EXP.

³ Prosecution’s Written Submissions, ICC-01/11-01/25-173-Conf, para. 8; [T-007](#), p. 4.

while the Defence suggests that they be filed by 18 December 2026, together with summaries of anticipated testimony.⁴

4. The Chamber finds that receiving preliminary lists of evidence and witnesses, even if later revised, would facilitate the Defence's preparation for trial, as well as the Chamber's understanding of the Prosecution's upcoming evidence presentation. Considering the deadline set below for the provision of the Prosecution's Final List of Witnesses (the 'List of Prosecution Witnesses') and Final List of Evidence (the 'List of Prosecution Evidence'), the Chamber instructs the Prosecution to file the Provisional List of Prosecution Witnesses and the Provisional List of Prosecution Evidence by **18 December 2026**.⁵

5. The Provisional List of Prosecution Witnesses should contain the same categories as the final List of Prosecution Witnesses⁶ with the requested information provided to the extent available on 18 December 2026. The Chamber is however not persuaded that, considering the information to be included in the Provisional List of Witnesses, separate summaries of witness testimony are required at this stage.⁷

B. Disclosure of material in the Prosecution's possession

6. The Chamber notes the Prosecution's submission that as of 25 August 2026 it had disclosed over 3,473 items (including witness statements and potentially exculpatory information), that additional items have been disclosed since, and that approximately 3,000 items are pending review and, if necessary, disclosure.⁸ The Chamber also notes the Prosecution's submissions on further focused investigations and proposed deadline of 8 March 2027 to complete its disclosure.⁹

⁴ Defence's Written Submissions, ICC-01/11-01/25-172, paras 11-12.

⁵ This is consistent with previous practice of the Court. See e.g. Trial Chamber V, Decision Setting the Commencement Date of the Trial, *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*, 16 July 2020, ICC-01/14-01/18-589 (the 'Yekatom and Ngaïssona Decision Setting the Start Date of the Trial'), para. 6; Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Decision Setting the Commencement Date of the Trial, 6 January 2020, ICC-01/12-01/18-548 (the 'Al Hassan Decision Setting the Start Date of the Trial'), para. 4.

⁶ See para. 13 below.

⁷ *Contra* Defence's Written Submissions, ICC-01/11-01/25-172, para. 12.

⁸ Prosecution's Written Submissions, ICC-01/11-01/25-173-Conf, paras 28-29; [T-007](#), p. 8.

⁹ Prosecution's Written Submissions, ICC-01/11-01/25-173-Conf, paras 9, 26; [T-007](#), p. 20.

7. Finally, the Chamber notes the Prosecution's submission that the fulfilment of its disclosure obligations is contingent upon ensuring the protection of witnesses in the context of a 'precarious and volatile' security situation in Libya, specifically the need to conduct the requisite risk assessments by the Prosecution and, where applicable, the VWU, before disclosure can be effectuated.¹⁰

8. In determining the disclosure deadline, the Chamber must balance the competing interests of the parties, while taking into consideration the specific circumstances of the case. The Chamber is mindful of the Defence's submissions in this regard,¹¹ and recalls the Court's consistent practice of setting a disclosure deadline three months before the start of the trial.¹²

9. Having considered the information before it, notably the volume of evidence still to be reviewed and potentially disclosed; the security environment in Libya and its impact on the assessment and implementation of any necessary protective measures, the Chamber orders the Prosecution to effect final disclosure by **4 February 2027**. The Chamber considers that this deadline will afford the Defence sufficient time to prepare for trial. The Prosecution is expected to disclose material on a rolling basis up until the deadline of 4 February 2027.

10. In relation to disclosure of witness identities, the Chamber is not persuaded by the Defence's submission that witness identities which have been withheld from the Defence to date should now be disclosed without delay and in any event no later than 30 days after the Status Conference.¹³ The Chamber underlines that the Pre-Trial Chamber had authorised the withholding of the identity of a number of witnesses due

¹⁰ [T-007](#), pp. 4-5.

¹¹ Defence's Written Submissions, ICC-01/11-01/25-172, paras 10, 13; [T-007](#), p. 23.

¹² *Yekatom and Ngaïssona* Decision Setting the Start Date of the Trial, para. 9.

¹³ Defence's Written Submissions, ICC-01/11-01/25-172, para. 10.

to security concerns¹⁴ and that the Prosecution has undertaken to disclose the identity of its witnesses on a rolling basis.¹⁵

11. The Prosecution has also indicated the possibility of applications for delayed disclosure of the identity of some of its witnesses.¹⁶ Should the Prosecution find it necessary to make any such applications, the Chamber instructs the Prosecution to do so at the earliest opportunity and no later than **12 January 2027**.

C. List of Prosecution Witnesses and List of Prosecution Evidence

12. The Chamber takes note of the Prosecution's proposed dates of 8 March 2027 and of 17 March 2027 to file, respectively, its final List of Witnesses and List of Evidence.¹⁷ Having considered the final disclosure deadline set above with the date of commencement of the trial set below, and in line with the established practice of the Court,¹⁸ the Chamber instructs the Prosecution to file its List of Witnesses by **4 February 2027** and its List of Evidence by **11 February 2027**. Witnesses and evidence may be added to the lists after the deadline only with leave of the Chamber.

13. The List of Prosecution Witnesses shall include the following information in respect of each witness:

- a. Witness code and identity (including different spellings if applicable);
- b. Type of witness (expert, fact witness) and whether the witness is a dual status witness;

¹⁴ Decision on the Prosecution's requests to authorise the non-disclosure of the identity and identifying information of 17 witnesses, 20 February 2026, ICC-01/11-01/25-69-Red (public redacted version notified on 25 March 2026); Decision on the Prosecution's request for authorisation to submit anonymous summaries of ten witnesses, 10 April 2026, ICC-01/11-01/25-99-Red; Decision on the Prosecution's request for authorisation to submit anonymous summaries of parts of P-0361, P-1570, P-1666, P-1692 and P-1737's evidence, 10 April 2026, ICC-01/11-01/25-100-Red; Decision on the Prosecution's requests to authorise the non-disclosure of the identity as well as certain information and materials related to 12 witnesses, 10 April 2026, ICC-01/11-01/25-101-Red.

¹⁵ Prosecution's Written Submissions, ICC-01/11-01/25-173-Conf, para. 28; [T-007](#), p. 8.

¹⁶ Prosecution's Written Submissions, ICC-01/11-01/25-173-Conf, para. 40; [T-007](#), pp. 21-22.

¹⁷ Prosecution's Written Submissions, ICC-01/11-01/25-173-Conf, paras 9-10.

¹⁸ See *e.g.* *Yekatom and Ngaissona* Decision Setting the Start Date of the Trial, paras 12-16; *Al Hassan* Decision Setting the Start Date of the Trial, paras 10-12.

- c. Known kinship or other relationship to other witnesses or other relevant persons in the case;
- d. Projected order of calling;
- e. Estimated length of questioning by the Prosecution;
- f. Summary of the anticipated testimony relevant to the charges;
- g. Mode of testimony (in person or videolink);
- h. Whether testimony is expected to be submitted via Rule 68 of the Rules;
- i. Anticipated requests for in-court protective and/or special measures, if any;
- j. Anticipated requests under Rule 74 of the Rules.

14. The List of Prosecution Evidence should, in accordance with recent practice, include the Document ID number with hyperlink, document type, title, whether the material is related to a particular witness and date of the document.

D. Trial Brief

15. The Chamber takes note of the Prosecution's proposed date to file its Trial Brief by 17 March 2027, and the Defence's lack of objection in this regard.¹⁹

16. Considering the date of commencement of the trial as set out below, and in line with prior practice at the Court,²⁰ the Chamber instructs the Prosecution to file a detailed Trial Brief by **11 February 2027**. Specific directions regarding the length and content of the Trial Brief will be provided by the Chamber in the upcoming Directions on the Conduct of Proceedings.²¹

¹⁹ Defence's Written Submissions, ICC-01/11-01/25-172, para. 16.

²⁰ See *e.g.* *Yekatom and Ngaïssona* Decision Setting the Start Date of the Trial, para. 14; *Al Hassan* Decision Setting the Start Date of the Trial, para. 16.

²¹ The Chamber also notes the Defence's notification that it intends to file a Trial Brief before the start of the Defence case. See Joint Submissions, ICC-01/11-01/25-169, para. 21.

E. Motions requiring resolution prior to the commencement of trial

17. The parties are hereby instructed to file any motions which require resolution prior to the commencement of trial by **5 April 2027**. This corresponds with the joint proposal of the parties to set this deadline at one month prior to the commencement of the trial,²² as well as with the established practice of the Court.²³ After this date the parties may only raise issues that would have arisen between 5 April 2027 and the start of trial.

F. Defence's notice of contested issues

18. The Chamber takes note of the Prosecution's request that the Chamber instruct the Defence to indicate by way of filing the principal matters of fact or law it contests and the general nature of the Accused's defence approximately one month before the start of trial.²⁴

19. The Defence undertook to comply with the Chamber's instruction in this regard. However, the Defence observed that such document would not amount to a 'Defence Trial Brief'.²⁵

20. Accordingly, the Chamber hereby instructs the Defence, to indicate, by way of formal filing, and no later than **5 April 2027** the following information: (i) the principal matters of fact or law for which the Defence takes issue in the Prosecution's case and the reasons for such issue being taken; and (ii) the general nature of the Accused's defence, including any particular defence under Article 31 of the Statute in conjunction with Rules 79 and 80 of the Rules on which he intends to rely.

²² Joint Submissions, ICC-01/11-01/25-169, para. 23.

²³ See e.g. *Yekatom and Ngaïssona* Decision Setting the Start Date of the Trial, para. 21; *Al Hassan* Decision Setting the Start Date of the Trial, para. 19; Trial Chamber IX, *Ongwen* case, Decision Setting the Commencement Date of the Trial, 30 May 2016, ICC-02/04-01/15-449, para. 11; Trial Chamber I, *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, Order setting the commencement date for trial, 7 May 2015, ICC-02/11-01/15-58, para. 28; Trial Chamber VII, *The Prosecutor v. Jean-Pierre Bemba Gombo et al.*, Order setting the commencement date for trial, 22 May 2015, ICC-01/05-01/13-960, para. 14.

²⁴ Joint Submissions, ICC-01/11-01/25-169, para. 24.

²⁵ [T-007](#), pp. 23-24.

G. Rule 68 applications, in-court protective measures and special measures

21. The Chamber takes note of the Parties' joint submission of a deadline of 8 March 2027 for the Prosecution to file its requests for admission of prior recorded testimony under Rule 68(3) of the Rules, and of 7 May 2027 for the Prosecution to file its requests under Rule 68(2) of the Rules and applications for in-court protective and special measures.²⁶ The Prosecution submits that it intends to use Rule 68 of the Rules in respect of approximately 40 witnesses.²⁷

22. In the particular circumstances of this case, notably considering the expected number of Rule 68 applications by the Prosecution and the date of commencement of the trial, the Chamber instructs the Prosecution to file all Rule 68 applications in batches (as relevant), on a rolling basis and no later than **4 May 2027**.

23. By the same deadline, the Prosecution is instructed to file, to the extent possible, its applications for in-court protective measures and for special measures. The VWU shall file its observations within 10 days of notification of any such application.

H. Commencement date of the trial

24. The parties jointly submit that the trial should commence on 8 June 2027, noting that this would ensure that the trial starts after Ramadan, would allow a reasonable period of three months between completion of pre-trial steps and commencement of the trial, and that the timeline proposed by the parties would make this the shortest pre-trial period from surrender to commencement of trial at the Court.²⁸

25. The Prosecution further refers to the scope and scale of the case, which comprises 17 charged crimes allegedly committed personally by the Accused and one of the highest numbers of identified victims of direct perpetration in the history of the Court. The Prosecution submits that these factors, alongside the practical realities of ensuring witness wellbeing and protection, necessitate the proposed date for trial and intermediary deadlines.²⁹

²⁶ Joint Submissions, ICC-01/11-01/25-169, paras 13-14.

²⁷ Prosecution's Written Submissions, ICC-01/11-01/25-173-Conf, paras 20-21; [T-007](#), pp. 8-9, 11.

²⁸ Joint Submissions, ICC-01/11-01/25-169, paras 10-12.

²⁹ Prosecution's Written Submissions, ICC-01/11-01/25-173-Conf, paras 5-6.

26. The OPCV submits that the trial should commence as soon as practicable considering the victims' right to expeditious proceedings, the Accused's right to be tried without undue delay and the need to afford potential new victims a reasonable period within which to apply for participation in the proceedings.³⁰ The OPCV accepts that given the practical difficulties identified by the parties, January 2027 (as initially proposed), would likely be difficult to achieve, but does not propose an alternative date. The OPCV does submit that the proposed start date of 8 June 2027 'might be very late'.³¹

27. In setting the date for the commencement of trial, the Chamber has carefully considered a number of competing interests. *First*, the Chamber is mindful of its obligation under Article 64(2) of the Statute to ensure that the proceedings are conducted fairly and expeditiously. The Chamber notes in particular the Accused's right under Article 67(1)(c) to be tried without undue delay, the detention of the Accused, the passage of time since the alleged crimes took place (*i.e.*, at least six years) and the interest of victims for the trial to commence as soon as practicable. *Second*, the Chamber is also mindful of its duty to ensure that the Accused has adequate time and facilities for the preparation of his defence in accordance with Article 67(1)(b) of the Statute. *Third*, the Chamber notes the Registry's and Prosecution's submissions in relation to the practical challenges related to witness protection emanating from the circumstances in Libya.³² In this regard, the Chamber underscores its obligation under Article 68 of the Statute to ensure the protection of the safety, physical and psychological well-being of witnesses.

28. Taking into consideration all of the above, the Chamber decides that the trial will commence on **4 May 2027**.

FOR THESE REASONS, THE CHAMBER HEREBY

DECIDES that the trial will commence on **4 May 2027**;

³⁰ OPCV's Written Submissions, ICC-01/11-01/25-170, paras 6-7; [T-007](#), p. 7.

³¹ [T-007](#), p. 7.

³² [T-007](#), pp. 4-5.

SETS the following deadlines leading up to the start of the trial:

18 December 2026: Provisional List of Prosecution Witnesses and Provisional List of Prosecution Evidence.

12 January 2027: Applications for delayed disclosure of the identity of Prosecution witnesses, if any.

4 February 2027: Disclosure of material in the Prosecution's possession and List of Prosecution Witnesses.

11 February 2027: Prosecution Trial Brief and List of Prosecution Evidence.

5 April 2027: Any motions requiring resolution prior to the commencement of the trial and Defence's notice of contested issues.

4 May 2027: Rule 68 applications, applications for in-court protective measures and for special measures.



Judge Althea Violet Alexis-Windsor
Presiding Judge



Judge Miatta Maria Samba



Judge Beti Hohler

Done in both English and French, the English version being authoritative.

Dated 14 September 2026

At The Hague, The Netherlands