

Initial Appearance

(Open Session)

ICC-01/11-01/25

1 International Criminal Court
2 Pre-Trial Chamber I
3 Situation: Libya
4 In the case of The Prosecutor v Khaled Mohamed Ali El Hishri - ICC-01/11-01/25
5 Presiding Judge Iulia Antoanella Motoc, Judge Reine Adélaïde Sophie
6 Alapini-Gansou and Judge María del Socorro Flores Liera
7 First Appearance - Courtroom 1
8 Wednesday, 3 December 2025
9 (The hearing starts in open session at 1.31 p.m.)
10 THE COURT USHER: [13:31:31] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE MOTOC: [13:32:11](Interpretation) Good morning, I would like
14 to welcome everyone both inside and outside of the courtroom.
15 I shall start by asking the court officer to kindly read out the case, please.
16 THE COURT OFFICER: [13:32:29] Good afternoon, Ms President, your Honours.
17 The situation in Libya, in the case of The Prosecutor versus Khaled Mohamed Ali El
18 Hishri, case reference ICC-01/11-01/25.
19 And, for the record, we are in open session.
20 PRESIDING JUDGE MOTOC: [13:32:46](Interpretation) Thank you very much.
21 And I will now ask for the appearances from the parties. Please, kindly observe a
22 pause before you speak and endeavour to speak slowly in order to facilitate the
23 work of our interpreters.
24 I shall begin with you, Madam Deputy Prosecutor.
25 MS KHAN: [13:33:08] Your Honours, I am Nazhat Shameem Khan, Deputy

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1 Prosecutor, and I appear with the Prosecution team today.

2 PRESIDING JUDGE MOTOC: [13:33:16](Interpretation) Thank you very much, and
3 the floor goes to the Defence counsel.

4 MR HASSAN: [13:33:29](Interpretation) Thank you, Madam President, thanks for
5 the respected panel. My name is Yasser Hassan. I am here representing on behalf
6 of the Defence of Mr El Hishri. With me, Mr Iain Edwards in the Defence team.
7 Thank you.

8 PRESIDING JUDGE MOTOC: [13:33:49] (No interpretation).

9 MR DUBUISSON: [13:33:59](Interpretation) * Thank you, Madam President. My
10 name is Marc Dubuisson, Director of judicial support services in the Registry. I am
11 standing in for the Registrar, Osvaldo Zavala Giler. I am accompanied by a judicial
12 cooperation adviser, the Judicial Coordinator, and the Head of the Detention Centre.
13 Thank you.

14 PRESIDING JUDGE MOTOC: [13:34:31](Interpretation) Thank you. For my part, I
15 will now introduce the Chamber. First of all, the Vice-President of the Court Judge
16 Adélaïde Sophie Alapini-Gansou, and Judge María del Socorro Flores Liera. I am
17 Iulia Antoanella Motoc, I'm the presiding judge of the Pre-Trial Chamber I.
18 And, at this point, I would like to address myself directly to you, Mr El Hishri.
19 Please kindly stand up.

20 I would like to begin by confirming your identity. Could you please state your
21 name.

22 MR EL HISHRI: [13:35:13](Interpretation) Khaled Mohamed Ali El Hishri.

23 PRESIDING JUDGE MOTOC: [13:35:17](Interpretation) And what is your date of
24 birth?

25 MR EL HISHRI: [13:35:24](No interpretation)

1 PRESIDING JUDGE MOTOC: [13:35:31](Interpretation) Where were you born?

2 Where were you born?

3 MR EL HISHRI: [13:35:44](Interpretation) 23 June -- 23 June 1978 in Tripoli.

4 PRESIDING JUDGE MOTOC: [13:35:57](Interpretation) You may now be seated.

5 By way of introduction, it is important to clarify the nature and limited scope of this

6 first appearance. Today's hearing is neither the commencement of trial, nor of the

7 confirmation of charges. In the course of the hearing of today, evidence shall neither

8 be adduced, nor presented, and any matters relating to the guilt or innocence of

9 Mr El Hishri shall not be touched upon. Pursuant to Article 60(1) of the

10 Rome Statute and to Rule 121 of the Rules of Procedure and Evidence, the principal

11 objective of this first appearance hearing is to provide answers to three questions.

12 Firstly, the Chamber shall satisfy itself that the person subject to the arrest warrant

13 has been informed of the crimes which he or she is alleged to have committed.

14 Secondly, the Chamber shall satisfy itself that the person has been informed of his or

15 her rights under the Rome Statute.

16 Thirdly, the Chamber shall set the date on which it intends to hold a hearing to

17 confirm the charges.

18 In relation to point 1, I would like to recall that Mr El Hishri has received a copy in

19 Arabic of the arrest warrant in his name and that a redacted version of the application

20 of the Office of the Prosecutor for the issuance of the arrest warrant is now in the

21 public domain.

22 That said, I would like to ask the court officer to please read out the charges filed

23 against him and she will do so in English. Madam Court Officer, you have the floor.

24 THE COURT OFFICER: [13:37:45] On 10 July 2025, Pre-Trial Chamber I concluded

25 that there were reasonable grounds to believe that Mr El Hishri is criminally

1 responsible pursuant to Article 25(3)(a) and (b) of the Rome Statute for the following
2 alleged war crimes committed in Libya in or near Mitiga prison against detainees
3 from around February 2015 to at least early 2020.

4 Cruel treatment, under Article 8(2)(c)(i) of the Statute, by inflicting severe physical or
5 mental pain or suffering upon at least a few persons protected by Common Article 3
6 to the 1949 Geneva Convention.

7 Torture, under Article 8(2)(c)(i) of the Statute, by inflicting severe physical or mental
8 pain or suffering upon at least a few persons protected by Common Article 3 to the
9 1949 Geneva Convention, for the purpose of obtaining information or a confession,
10 punishment, intimidation or coercion under Article 8(2)(c)(i) of the Statute.

11 Murder, under Article 8(2)(c)(i) of the Statute, committed by killing at least a number
12 of persons protected by Common Article 3 to the 1949 Geneva Convention.

13 Outrages upon personal dignity, under Article 8(2)(c)(ii) of the Statute, inflicted by
14 humiliation, degradation or otherwise violation of their dignity upon at least a few
15 persons protected by Common Article 3 to the 1949 Geneva Convention.

16 Rape, under Article 8(2)(e)(vi) of the Statute, of at least two persons who were
17 protected under international humanitarian law at the time.

18 Sexual violence, article 8(2)(e)(vi) of the Statute, committed against at least two
19 persons protected under international humanitarian law.

20 Furthermore, the Chamber found that there were reasonable grounds to believe that

21 Mr El Hishri is criminally responsible, also pursuant to Article 25(3)(a) and (b) of the
22 Statute, for crimes against humanity committed against certain persons detained in
23 Mitiga prison. These crimes against humanity that will be read out next were
24 allegedly committed as part of a widespread or systematic attack against segments of
25 the civilian population in Libya, who were perceived to be opposing SDF/RADA or

1 its ideology, pursuant to a state or organisational policy:

2 Imprisonment, under Article 7(1)(e) of the Statute.

3 Torture, under Article 7(1)(f) of the Statute.

4 Rape of at least five persons, under Article 7(1)(g) of the Statute.

5 Sexual violence, under Article 7(1)(g) of the Statute.

6 Murder, under Article 7(1)(a) of the Statute, by intentionally killing one detainee
7 himself and being responsible for the killing of a significant number of other
8 detainees.

9 Persecution, Article 7(1)(h) of the Statute, by targeting detainees on the basis of, *inter*
10 *alia*, their views.

11 PRESIDING JUDGE MOTOC: [13:42:20](Interpretation) Thank you very much,
12 Madam Court Officer.

13 You have just listened to a reading of the charges which are in line with the contents
14 of the arrest warrant that you have previously received. This means that you have
15 been informed of the crimes which you are alleged to have committed. And that
16 brings us to the end of the first point, as indicated above.

17 I will now move on to the second point which sets out your rights as a suspect before
18 the Court. I will read out a recapitulation of some of those rights which are of
19 crucial importance at this stage of the proceedings.

20 They are as follows:

21 You may benefit from the assistance of a competent interpreter, free of any cost, as
22 well as such translations as are necessary to meet the requirements of fairness.

23 You have the right to have adequate time and the facilities necessary for the
24 preparation of your defence, as well as the right to communicate freely with counsel
25 of your choosing in confidence.

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1 You have the right to remain silent and you cannot be compelled to testify against
2 yourself or to confess guilt.

3 You may also make unsworn statements in your defence.

4 In addition to any other disclosure provided for by the Statute, the Prosecutor shall,
5 as soon as practicable, disclose the evidence in its possession or control which shows
6 or tends to show innocence or to mitigate your guilt, or which may affect the
7 credibility of Prosecution evidence.

8 At the confirmation of charges hearing, you may object to the charges, challenge the
9 evidence provided by the Prosecutor, and present evidence of your own.

10 You shall not be committed to trial if the charges against you are not confirmed, or if
11 the proceedings against you are discontinued.

12 You have the possibility -- you have the right to be informed promptly and in detail
13 of the nature, cause and content of the charges in a language that you fully
14 understand and speak.

15 And, lastly, Mr El Hishri, you have the possibility of applying for release pending
16 trial.

17 We received an email this morning indicating that they had submitted an application
18 for provisional release. We have taken note and it should be filed on record in
19 written form so that the Chamber can render a decision in due course.

20 Do you have any observation to make?

21 MR EL HISHRI: [13:45:36](Interpretation) My counsel.

22 MR HASSAN: [13:45:38] Thank you, your Honour. He has no response.

23 PRESIDING JUDGE MOTOC: [13:45:46](Interpretation) Thank you, counsel, you
24 may now be seated.

25 Mr El Hishri, at this juncture, I would like to ask you whether you have any

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1 observations to make in relation to the conditions of your detention at the detention
2 centre of the Court, or of your transfer to the Court?

3 MR HASSAN: [13:46:26] Your Honour, the Arabic language does not exist.

4 PRESIDING JUDGE MOTOC: [13:46:28](Interpretation) Let me repeat.

5 MR HASSAN: [13:46:30] Okay, but you speak French, your Honour, and he needs to
6 hear from an Arabic language.

7 PRESIDING JUDGE MOTOC: [13:46:36](Interpretation) Of course. I will now
8 speak slowly.

9 At this juncture, Mr El Hishri, I would like to ask you, do you have any observations
10 to make in relation to the conditions of your transfer to the Court, or to the conditions
11 of your detention at the detention centre of the Court in The Hague from the moment
12 of your arrival there?

13 MR EL HISHRI: [13:47:11](Interpretation) Just my -- just requesting my release.

14 PRESIDING JUDGE MOTOC: [13:47:15](Interpretation) Thank you, Mr El Hishri.
15 Please be seated. You can now be seated.

16 I shall now set a date for the confirmation of charges hearing. After having assessed
17 all the relevant factors, including the necessity for the parties and participants to
18 prepare themselves adequately, and mindful of the rights of Mr El Hishri, the date for
19 the commencement of the confirmation of charges is hereby set on 19 May 2026.

20 In order to enable everyone concerned to smoothly navigate the upcoming stages of
21 the proceedings, I will lay down some guidelines on behalf of the Chamber.

22 The Chamber shall conduct a number of status conferences to ensure that the
23 exchange of information, *inter partes*, is carried out seamlessly and adequately. The
24 first status conference is slated for either 28 or 29 January 2026. A detailed agenda
25 thereof shall be issued in due course.

1 The Prosecutor must, as of today, begin the disclosure of any and all information or
2 materials based on which the arrest warrant was issued, and such disclosure should
3 be completed by 11 December 2025.

4 It is the opinion of the Chamber, in this case, and in accordance with Rule 81(2) and (4)
5 of the Rules of Procedure and Evidence, that it is necessary to implement the
6 redactions protocol set out in paragraphs 98 to 100 of the latest edition of the
7 Chamber's practice manual.

8 With regard to the time frame and format for the disclosure of evidence and related
9 matters, the Chamber instructs the parties to consult with each other and to submit
10 filings containing concrete and joint proposals to the extent practicable by
11 15 January 2026. Such filings may deal with any other matters that the parties would
12 like to have included on the agenda of the first status conference.

13 The Chamber is of the view that it would be appropriate to adopt the protocol on the
14 handling of confidential information during investigations and contacts between a
15 party or a participant and witnesses of the opposing party, or of a participant as laid
16 down in the annex of the latest version of the practice manual.

17 Drawing from the settled practice of the Chambers of the Court, we believe that it is
18 appropriate in this case to adopt the procedure for admission of victims to participate
19 in the proceedings in accordance with the A, B, C approach articulated in paragraph
20 96, as well as the time frame stipulated in paragraph 97(1) of the practice manual.

21 The Registrar may use either the standard form or the form designed for applicants
22 living under the same roof.

23 Lastly, for the purpose of the organisation of the common legal representation for the
24 victims, the Chamber instructs the Registrar to submit filings setting out any
25 recommendations deemed to be useful for such organisation by 17 December 2025.

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- 1 Any responses to such filings must be submitted before 19 December 2025.
- 2 We have now come to the end of our hearing. I would like to thank all the
- 3 participants, the security officers, the audio-visual team, as well as the interpreters
- 4 and court reporters.
- 5 This hearing is now adjourned.
- 6 THE COURT USHER: All rise.
- 7 (The hearing ends in open session at 1.51 p.m.)