

Status Conference

(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 Motoc, Judge Reine Adélaïde Alapini-Gansou and Judge María
6 del Socorro Flores Liera
7 Status Conference - Courtroom 1
8 Wednesday, 4 March 2026
9 (The hearing starts in open session at 2.01 p.m.)
10 THE COURT USHER: [14:01:15] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE MOTOC: [14:01:48](Interpretation) Good afternoon, I'd like to
14 welcome everyone here inside the courtroom and those outside the courtroom.
15 Court officer, kindly call the case.
16 THE COURT OFFICER: [14:02:03] Good afternoon, Madam President, good
17 afternoon, your Honours.
18 This is the situation in Libya, in the case of the Prosecutor v. Khaled Mohamed Ali El
19 Hishri, case reference ICC-01/11-01/25.
20 And for the record, we are in open session.
21 PRESIDING JUDGE MOTOC: [14:02:20](Interpretation) I would now like to ask
22 parties and participants to introduce themselves.
23 I would like to begin with the Office of the Prosecutor. Kindly proceed, ma'am.
24 MS SAMSON: [14:02:35] Good afternoon, your Honours.
25 For the Prosecution today is Ms Jessica Lacey, case manager, Mr Rens van der Werf,

1 trial lawyer, Mr Hesham Mourad, trial lawyer, and myself Nicole Samson, senior trial
2 lawyer.

3 PRESIDING JUDGE MOTOC: [14:02:51](Interpretation) Thank you very much.
4 The Chamber thanks you and now I would like to call upon Defence counsel to
5 introduce himself and his team.

6 MR HASSAN: [14:03:01](Interpretation) Thank you, Madam President, and
7 thank you, dear judges. Good afternoon everyone. I am Yasser Hassan, senior
8 counsel, and with me I have all my team members, and I have already sent their
9 names to the employees of the Court.

10 PRESIDING JUDGE MOTOC: [14:03:28](Interpretation) I note the presence of
11 Mr El Hishri in the courtroom.

12 I now turn to the victims. Ms Massidda.

13 MS MASSIDDA: [14:03:45](Interpretation) Good afternoon, your Honour. Here
14 today we have Tars van Litsenborgh, legal officer, Ahmad Issa, lawyer and linguist,
15 Ana Peña, case manager, and myself Paolina Massidda, senior counsel.

16 PRESIDING JUDGE MOTOC: [14:04:04](Interpretation) Thank you very much,
17 counsel. And finally representatives of the Registry, please introduce yourselves.

18 MS BERTRAND: [14:04:15](Interpretation) Thank you, Madam President. My
19 colleague is -- we are here representing the Registry, the unit responsible for
20 cooperation within the Registry and myself.

21 PRESIDING JUDGE MOTOC: [14:04:35](Interpretation) Thank you very much.

22 Now, the first status conference was on 28 January. Today's hearing is the second.

23 The main purpose of these status conferences, to ensure -- is to ensure that
24 information is exchanged in a smooth manner and under good conditions with a view
25 to the upcoming confirmation of charges hearing. I remind you that the beginning

1 of that hearing has been scheduled for 19 May 2026.

2 Before beginning, I would like to remind everyone that our colleagues in the
3 interpretation booths need us to speak slowly and they need us to pause for at least
4 five seconds before speaking.

5 The agenda for today's hearing has been sent to you by email. The first point on the
6 agenda is an update on disclosure by the Office of the Prosecutor.

7 Madam Prosecutor, please proceed.

8 MS SAMSON: [14:06:24] Your Honours, the disclosure by the Prosecution is
9 proceeding in accordance with the Chamber's instruction. We have to date disclosed
10 2,142 items of evidence to the Defence team, which includes information that we
11 intend to rely upon at the confirmation hearing as well as information that falls under
12 Rule 77 and Article 67(2).

13 On 5 February, we completed disclosure of all of the evidence relied upon by the
14 Chamber in accordance with its orders relied upon in the arrest warrant and that
15 included relevant translations of witness statements into Arabic.

16 On 27 February, we completed disclosure of additional items, not relied upon by the
17 Chamber in the warrant, but relied upon by the Prosecution in the arrest warrant
18 application, and this also included Arabic translations. Within that pool of material,
19 there were several summarised witness statements which we disclosed in accordance
20 with Article 61(5), and for which an application for authorisation to disclose
21 summaries will be made either this Friday or Monday 9 March.

22 We are completing now the remaining disclosures that we have to complete before 19
23 March and we have anticipated already that that will include the witness statements
24 of 14 witnesses, in both English and in Arabic, which we will disclose on a rolling
25 basis between this week and 19 March.

1 Complementing that disclosure will be applications for non-disclosure of the identity
2 of a number of those witnesses, which we also intend to file with the Chamber on
3 a rolling basis, starting next week.

4 As we reported to the Chamber in a recent joint submission, two of those 14 witness
5 statements are being completed currently and it may be -- and we will assess this next
6 week -- that the Prosecution will make an application for a narrow and limited
7 number of days to disclose the Arabic translation of those two witness statements.
8 However, we will disclose the English statements, which is a language that counsel
9 understands and speaks and will allow the Defence team to prepare for the
10 confirmation hearing and discuss the content of those two statements with their client
11 in advance of the disclosure of the Arabic translation. So we will submit, should
12 such an application be made, that there should not be any impact to preparation or to
13 the date of the confirmation hearing.

14 Subject to any questions you may have in relation our disclosure, those are the
15 submissions that I wish to make on that agenda point.

16 PRESIDING JUDGE MOTOC: [14:09:57](Interpretation) Thank you very much,
17 Madam Prosecutor.

18 I'll now give the floor to you, counsel, to speak to our first point on the agenda.

19 MR HASSAN: [14:10:12] (Interpretation) Thank you, Madam President. I will
20 abide by the schedule that you sent earlier. Yes, the Office of the Prosecutor have
21 submitted 47 statements on a rolling basis, starting 11 December 2025 and ending on
22 27 February 2026.

23 However, only 41 of these statements had been translated into Arabic, six haven't
24 been translated until now. The total number of statements -- or witnesses that
25 include evidence is 53 statements. Despite that these statements have been with the

1 Office of the Prosecutor for years, the first statement dates at the beginning of 2018,
2 and the last one is dated 7/7/2025.

3 It would have been better that, after all this period of time, these statements should
4 have been translated and prepared for disclosure and handover.

5 So, it's true that the Defence team works in English, however, we are subject to the
6 instructions of Mr El Hishri when it comes to the submissions of the Defence. And
7 this is the main right of the accused. He has the right to access all the evidence in the
8 language that he understands.

9 However, there is also a remark about some statements that were handed over to us
10 and they were totally redacted or heavily redacted; even the names of the witnesses
11 and the data that revealed their identity have been redacted. So this redaction has
12 been requested or submitted to the Court and the Court has made a decision about it.

13 However, I have two remarks here. The first is, how can we know whether this
14 witness is a civilian or from the military at the time when all the personal data of this
15 person are redacted? How can we verify whether this witness is affiliated to
16 a military faction or not at a time when all the data is redacted -- all the data that is
17 redacted within the submissions or the disclosures of the OTP?

18 This is one of the questions, and not all the questions. Even Mr El Hishri wonders:
19 How can I face a witness that I do not know; how can I appeal or how can I question
20 a statement of a person that I do not know?

21 However, here, Madam President, I will refer to the arrest warrant issued on 10
22 July 2025, where the judges decided, especially in paragraphs 15, 16 and 17 of the
23 arrest warrant to arrest Mr El Hishri -- and I will read some of these paragraphs.

24 So, paragraph -- in paragraph 15, the Court says, the Chamber says:

25 "It must therefore be shown that a (non-international) armed conflict existed at the

1 time the persons were arrested or otherwise detained..."

2 Here is the question: How can we know whether these persons were from the military
3 or were civilian based on this paragraph, because this stipulates whether these
4 persons were protected by IHL or not?

5 Second, in paragraph 16 -- so the same meaning here, the same assertion. And, also,
6 this applies to paragraph 17.

7 Therefore, Madam President, dear judges, in order to deal with these legal
8 stipulations in these paragraphs and based on what the Chamber relied on to issue
9 the arrest warrant, and within this heavy redaction that we have received on -- the
10 redaction, even, of the names of the witnesses, so this impedes the work of the
11 Defence. And we know that the threshold of evidence -- of proof at this point in the
12 proceedings is rather low.

13 However, now, Madam President, we are dealing with evidence, and the evidence
14 that we cannot examine cannot be used for exoneration. And if the Office of the
15 Prosecution submits that this redaction will be removed later on in the procedures,
16 then at this point, we will have deprived Mr El Hishri one of the phases of the
17 proceedings, because this pretrial period related to the confirmation of charges.

18 Here, the Defence relies on this basic data information. In the absence of such data
19 information, essential information, it would be impossible to examine or to contest
20 this information, and this prevents the Defence from defending our client effectively.

21 Therefore, we would like to request you to review the decision of 26 February 2026,
22 and I would like to ask you to review or look again into this as soon as possible.

23 Thank you.

24 PRESIDING JUDGE MOTOC: [14:16:51](Interpretation) Thank you very much,
25 counsel.

1 I'll now turn to the representative of the OTP.

2 Madam Prosecutor, did you wish to say anything in response in relation to this
3 matter.

4 MS SAMSON: [14:17:06] Yes, thank you, your Honour.

5 Counsel raised several issues in relation to timing of disclosure and redactions.

6 So, on the timing of disclosure, the Prosecution has abided by the Chamber's orders
7 on deadlines and whether or not translations ought to have been made earlier is
8 dependent on a variable number of factors, but we have abided by those deadlines as
9 given by the Chamber.

10 Redactions to the identity of witnesses, of which there are several in this case, is
11 permissible at this stage of the proceedings. The redactions have been reviewed by
12 the Chamber and approved by the Chamber. They are necessary in order to protect
13 victims and witnesses, and the Chamber has determined that they are proportionate
14 and do not unduly affect the rights of the Defence at this stage.

15 Redactions of this nature also affect the Office of the Prosecutor in that we are unable
16 to rely on information that is redacted in the course of the confirmation hearing.

17 The Defence had an opportunity to make observations, to object to and challenge
18 these redactions, and they have done so, but the Chamber has approved them on the
19 basis of its own independent assessment.

20 The Defence sought leave to appeal that decision and it was rejected.

21 Accordingly, in our submission, we must move on from the issue of redactions or the
22 Defence can raise it at the appropriate time, which would be during the confirmation
23 hearing itself.

24 There are a number of witnesses whose identity has not been redacted to the Defence.

25 There are at least 23 witnesses for whom the Defence has full access to their data.

1 And even for the witnesses for whom their identity has been redacted, the substance
2 of their account is not redacted. And, therefore, the Defence has information at its
3 disposal upon which it can determine the basis upon a person's arrest and the harms
4 that came to them during the course of their detention, which would be applicable
5 both to the charges that are war crimes and the charges that are crimes against
6 humanity, because, of course, we have charged both.

7 Those are my submissions. Thank you.

8 PRESIDING JUDGE MOTOC: [14:19:58](Interpretation) Thank you very much,
9 Madam Prosecutor.

10 Would any other party or participant wish to make further submissions on this point,
11 or observations?

12 MS MASSIDDA: [14:20:16](Interpretation) Thank you, Madam President, I'm sorry I
13 interrupted you. Thank you. We have no point to raise on this particular matter at
14 this time. Thank you.

15 PRESIDING JUDGE MOTOC: [14:20:30](Interpretation) Thank you very much.

16 Did the Defence wish to speak once again to this point?

17 MR HASSAN: [14:20:38](Interpretation) Thank you very much, Madam President.

18 I would like to inform the Chamber that we are going to submit a document including
19 all our objections and we are going to ask the Chamber to reconsider their previous
20 decision. Thank you very much.

21 PRESIDING JUDGE MOTOC: [14:21:02](Interpretation) Thank you very much,
22 counsel.

23 The Chamber takes note of the submissions from the parties regarding the process of
24 disclosure and how it has been going so far. Indeed, the Chamber is encouraged by
25 the process and how it is unfolding, and we state once again that it is important to

1 meet the deadline of 19 March 2026. That is the deadline for all disclosures, in
2 particular, the translations into Arabic to which the Defence is entitled.
3 Concerning the two translations of statements that are being finalised, the Chamber
4 calls upon the Prosecutor to make every possible effort to respect this deadline. If
5 that is not possible for those particular translations or any other document in the
6 possession of the Prosecutor that could not be disclosed within the deadline, in
7 possession of the Prosecutor that could not be disclosed within the time allotted, the
8 Prosecutor shall file an application for an extension of the deadline before 19
9 March 2026, which is the date on which the deadline expires.
10 Furthermore, taking note of the current schedule, and in order to not disturb this
11 schedule, the Chamber orders the Office of the Prosecutor to file as quickly as possible
12 these additional requests that have to do with the non-disclosure of the identity or
13 witness statements preferably on a rolling basis before 19 March. After receiving
14 relevant responses and observations, the Chamber shall rule on these final matters as
15 quickly as possible.
16 The Chamber takes note of the observations made by the Defence relating to the
17 consequences of any delay in the disclosure process and shall examine these issues if
18 there is a delay.
19 The delays and the deadlines, and the procedures relating to challenges of the
20 jurisdiction and the admissibility by the Defence, this is the second point on our
21 agenda and, I believe, counsel, it is time for me to ask you to proceed.
22 Please go ahead.
23 MR HASSAN: [14:24:46](Interpretation) Thank you, Madam President.
24 Regarding the deadlines, we have submitted to you before in our joint filing that we
25 are going to file our submissions regarding the jurisdiction and admissibility two

1 weeks before the confirmation of charges hearing. We are right now waiting for
2 some responses from certain parties that we have requested information from, and
3 that we requested cooperation and assistance from. And we don't have any
4 intention to delay the submissions and we don't have any intention to ask for any
5 assistance from outside the Court.

6 However, we have already contacted some departments inside the Court itself to
7 request certain data, and we abide by the date. Two weeks before the confirmation
8 of charges hearing, you will have all of our submissions. Thank you very much,
9 Madam President.

10 PRESIDING JUDGE MOTOC: [14:26:14](Interpretation) Thank you very much,
11 counsel.

12 We will now hear the Prosecutor on this issue.

13 Madam Prosecutor, please proceed.

14 MS SAMSON: [14:26:27] Your Honour, we took note of the Defence's proposal to file
15 the challenge to both jurisdiction and admissibility two weeks before the confirmation
16 hearing date and we did not put our observations in the joint filing, preferring to
17 make them before your Honours today.

18 As your Honours are aware, jurisdictional and admissibility challenges are complex
19 both factually and legally, and they require some time for the Prosecution and no
20 doubt the representatives of victims to respond adequately. As your Honours have
21 foreshadowed, it may be that Libyan authorities will also be invited to make
22 submissions, which will also take some time.

23 Two weeks prior to the confirmation hearing will be a very intense period for both the
24 Prosecution, the Defence, but also for the victims' representatives, to prepare. Before,
25 during the confirmation hearing and afterwards there is significant work that needs

1 to be done, and responding to a jurisdictional and admissibility challenge at the same
2 time would significantly derail our preparation.

3 Your Honours have, of course, a discretion to determine at what time, in accordance
4 with Rule 58 of the Statute, you hear these submissions and at what time you decide
5 them. And it is, of course, within your discretion to determine that you will decide
6 the issue of jurisdiction and admissibility at the same time as you decide issues of the
7 confirmation hearing, deciding of course those issues first and then the issues on the
8 merits of the confirmation hearing later.

9 In our review of some of the jurisdictional challenges raised in other cases, they were
10 made significantly earlier than two weeks before the confirmation hearing. So, for
11 example, in the Duterte proceeding, the jurisdiction challenge was made nearly four
12 and a half months before the anticipated first date of the confirmation hearing. And
13 in the Abd-Al-Rahman case, they were -- jurisdictional challenge was made two
14 months in advance of the confirmation hearing.

15 As a general principle, if the Defence already knows what the issues are it wishes to
16 raise on both these matters, it should be making them at the earliest opportunity.

17 What the Prosecution, and no doubt the Chamber, wishes to avoid are any delays to
18 the trial itself and the start of the ultimate trial. So the earlier these issues are able to
19 be decided and, if necessary, appealed, the safer the trial date is.

20 Nonetheless, we will be guided by any orders your -- your Honours make in relation
21 to the procedures to be followed and the timelines. Our request is that should the
22 Defence file these two significant challenges two weeks before the confirmation
23 hearing, that our deadline doesn't start until after the confirmation hearing. The
24 deadline -- the start of the time period to respond would begin on or about 22 May,
25 when the confirmation hearing is finished, and will progress for the time period the

1 Chamber determines appropriate, whether it's 20 days or otherwise. And then the
2 Chamber would decide the issue first in the context of its confirmation hearing
3 decision. Thank you.

4 PRESIDING JUDGE MOTOC: [14:30:05](Interpretation) Thank you very much,
5 Madam Prosecutor.

6 Now we would like to hear from the representatives of the Registry. I believe I
7 prefer that we go into private session for the upcoming exchanges.

8 Madam Courtroom Officer, please, private session.

9 (Private session at 2.30 p.m.)

10 THE COURT OFFICER: [14:30:39] We are in private session, Madam President.

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21 (Open session at 2.40 p.m.)

22 THE COURT OFFICER: [14:40:14] We are back in open session, Madam President.

23 PRESIDING JUDGE MOTOC: [14:40:18](Interpretation) The Chamber takes note of

24 the intention of the Defence to challenge the jurisdiction of the Court as well as the

25 admissibility of the case and that they expect to be in a position to submit such

1 a challenge in writing 14 days prior to the confirmation of charges hearings.

2 The Chamber recalls that the Defence is empowered by the statutory instruments to

3 raise such challenges at any time before the commencement of trial. It is of the

4 opinion that it would be appropriate and ideal to entertain such challenges and to

5 rule on the issues concerned before or jointly with a decision on the confirmation of

6 charges. That being the case, and to avoid setting any rigid deadlines, the Chamber

7 strongly encourages the Defence to present such challenges in writing at the earliest

8 possible opportunity, and ideally before the end of the month of April.

9 Now, the third point on our agenda is at the request of the parties, the reclassification

10 to public, and especially certain written submissions and decisions in the case file of

11 the case.

12 I will give the floor to Madam Prosecutor for that.

13 MS SAMSON: [14:42:27] Yes, your Honour, it's a point raised by the Defence

14 primarily, so perhaps the Defence has more to add. What I can say for the

15 Prosecution is that there are a number of filings and decisions that have been made,

16 confidentially or *ex parte*. This week, the Prosecution has filed four public redacted

17 versions of requests that he has made and we stand ready to file further public

18 redacted versions of requests and submissions, should your Honours so decide.

19 Thank you.

20 PRESIDING JUDGE MOTOC: [14:43:07](Interpretation) Thank you very much,

21 Madam Prosecutor.

22 Defence counsel, you have the floor.

23 MR HASSAN: [14:43:16](Interpretation) Thank you, Madam President. Simply

24 speaking, we request that the OTP submit PRVs for all the pre -- formerly submitted

25 files upon which we will also submit a redacted version of all the documents

1 submitted by the Defence. Thank you.

2 PRESIDING JUDGE MOTOC: [14:43:50](Interpretation) Thank you very much,
3 counsel.

4 The Chamber appreciates the concerns of the parties and recalls the importance of
5 keeping the case record accessible to the public to the extent possible.

6 In this regard, the Chamber welcomes the proposals of the Prosecutor and of the
7 Defence on this matter and orders the parties to consult with each other for the
8 purpose of submitting public versions of the specified documents within the coming
9 weeks.

10 Henceforth, the Chamber encourages the parties and participants to submit public
11 redacted versions of their written submissions as expeditiously as possible and
12 ideally a few days after the filing of the original confidential versions. This should
13 enable the Chamber to release public versions within the shortest possible time.

14 Now, the fourth and last point of our agenda relates to all other residual matters to be
15 dealt with.

16 First of all, in order to ensure the proper conduct of the proceedings prior to the
17 confirmation of charges, the Chamber hereby decides to replace the automatic
18 timeline of 10 days provided for in Regulation 24 of the Regulations of the Court with
19 a time limit of five days. This adjustment is valid as from now, and for the
20 submission of all responses following the notification of motions or written
21 submissions. If the parties or participants are not able to submit their responses
22 within the prescribed period of five days, they shall be required to apply for a time
23 extension before the expiry of that timeline in accordance with Regulation 35 of the
24 Regulations of the Court.

25 Secondly, the Chamber would like to inform the parties and participants that the next

1 status conference will take place during the week of 20 April 2026, highly likely on 21
2 or 22 of April 2026.

3 The parties should once again consult with each other and file submissions, jointly to
4 the extent possible, by 13 April 2026. These submissions will make it possible to
5 update the Chamber on their state of preparation for the confirmation of charges
6 hearings. Once again, the parties are called upon to propose any items that they
7 would wish to have included on the agenda of that third status conference.

8 Lastly, and from a more general perspective, the Chamber has taken note of the
9 written observations of the parties, and in particular the imminent submission of an
10 application for interim release as well as other issues linked to their preparation in
11 anticipation of the confirmation of charges hearing. These submissions will of
12 course be the subject of an exchange of filings in the coming weeks and may, as
13 necessary, be dealt with during our next status conference.

14 Unless there is a request to take the floor, we have now come to the end of our
15 hearing. I would like to thank all the participants, our court officer and court clerk,
16 the security officers, the AV team, as well as the interpreters and court reporters.

17 Court is hereby adjourned.

18 THE COURT USHER: [14:49:33] All rise.

19 (The hearing ends in open session at 2.49 p.m.)