

1 International Criminal Court
2 Trial Chamber VII
3 Situation: Libya
4 In the case of The Prosecutor v. Khaled Mohamed Ali El Hishri - ICC-01/11-01/25
5 Presiding Judge Althea Violet Alexis-Windsor, Judge Miatta Maria Samba and
6 Judge Beti Hohler
7 Status Conference - Courtroom 1
8 Thursday, 3 September 2026
9 (The hearing starts in open session at 9.30 a.m.)
10 THE COURT USHER: [9:30:59] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE ALEXIS-WINDSOR: [9:32:04](Microphone not activated)
14 Very well, so sorry. And for the third time, as I finally put on my microphone, good
15 morning again, everyone. You are all welcome to this, our first status conference.
16 Court officer, please call the case.
17 THE COURT OFFICER: [9:32:24] Good morning, Madam President. Good
18 morning, your Honours.
19 This is the situation in Libya, in the case of The Prosecutor versus Khaled Mohamed
20 Ali El Hishri, case reference ICC-01/11-01/25.
21 And for the record, we are in open session.
22 PRESIDING JUDGE ALEXIS-WINDSOR: [9:32:44] Very well. Please allow me, as
23 this is our first time, to introduce the Bench. I am Althea Violet Alexis-Windsor,
24 Presiding Judge. To my right is Judge Miatta Maria Samba and to my left
25 Judge Beti Hohler.

1 Can the parties please introduce themselves for the record. Starting with the
2 Prosecution, please.

3 MS SAMSON: [9:33:14] Good morning, Madam President. Good morning, your
4 Honours. For the Prosecution today are Mr Hesham Mourad, Ms Dianne Luping,
5 Mr Rens van der Werf, trial lawyers; Ms Diana Saba, associate trial lawyer; Mr Dennis
6 Geertsema, case manager; and myself, Nicole Samson, senior trial lawyer.

7 PRESIDING JUDGE ALEXIS-WINDSOR: [9:33:39] Thank you.
8 The Defence, please.

9 MR HASSAN: [9:33:47] (Speaks Arabic) Thank you, your Honour. Thank you, on
10 our channel. Today we are -- represent Mr El Hishri. Our team contain
11 Mr Iain Edwards, Ms Emma Brandon, Mr Islam Elhadidy, Mr Ahmed Alammar and
12 Mrs Dilara Altun, (Speaks Arabic) Julia, main -- case -- our case manager, I'm sorry.

13 PRESIDING JUDGE ALEXIS-WINDSOR: [9:34:27] Thank you so much, counsel.
14 All right.

15 MR HASSAN: [9:34:35](Interpretation) Thank you.

16 PRESIDING JUDGE ALEXIS-WINDSOR: [9:34:37] Thank you.
17 From the Office of the Public Counsel for Victims.

18 MS PELLET: [9:34:40](Interpretation) Thank you very much, your Honour,
19 honourable members of the Bench. The victims are today represented by
20 Ahmad Issa and myself, Sarah Pellet, Office of the Public Counsel for Victims.

21 PRESIDING JUDGE ALEXIS-WINDSOR: [9:35:00] Thank you, counsel.
22 And from the Registry.

23 MS DAHURON: [9:35:03](Interpretation) Good morning. On Registry's bench we
24 have Philipp Ambach, who's head of the reparations section for victims; Fatiah Balfas,
25 who's a legal officer at the Witness and Victims Unit; Jamila Zoubir, who's a legal

1 coordinator at the Judicial Services Division, so the ODDJS; and myself, Charlotte
2 Dahuron, who's representing Mr Dubuisson, the director.

3 PRESIDING JUDGE ALEXIS-WINDSOR: [9:35:32](Interpretation) Thank you.

4 (Speaks English) All right, then. So today's status conference is held to discuss the
5 matters listed on the agenda. The filing is dated 31 August, filing number 176.

6 Pursuant to this direction, the parties and participants have provided their written
7 submissions. The Chamber notes that these written submissions were very fulsome
8 and that the Chamber will not need to hear submissions that have already been put in
9 writing.

10 All right. So that, just to note, the Chamber will not be issuing today during the
11 status conference any oral decisions, but there will be a written decision subsequently.

12 There will be, as well, an *ex parte* session at the end of the status conference with the
13 Prosecution and the Victims and Witnesses Unit attending to discuss any residual and
14 sensitive details. In this regard, the Chamber considers that it would be assisted by
15 periodic updates on the political and security situation in Libya. The Registry will
16 be instructed to provide the Chamber with these reports and that a version of these
17 reports should be made available for parties and participants in redacted form if
18 necessary. The dates would be supplied also subsequently.

19 All right. With that being said, let us then begin with the listed agenda, beginning
20 with the commencement date of the trial and the deadlines leading up to the start of
21 the trial.

22 I'd like to hear the Prosecution, please.

23 MS SAMSON: [9:37:43] Your Honour, as set out in our submissions, written and
24 submitted to the Chamber, the Defence and the Prosecution have jointly submitted a
25 trial date of 8 June 2027.

1 When we for the Prosecution were assessing very carefully what an appropriate start
2 date may be, we took into account various factors, starting with the established
3 practice in other Chambers in terms of the deadlines leading up to the trial. In
4 particular, five months before trial for provisional list of evidence and witnesses; three
5 months, typically, before trial for main disclosure of incriminating evidence,
6 provision of a pretrial brief and a number of other residual matters, including
7 translations and transcriptions.

8 With that time frame in mind, we also carefully considered the expeditiousness of a
9 trial that would start on 8 June and we have canvassed across cases of the ICC what
10 the average time span has been between surrender and trial and, even starting on a
11 8 June 2027 trial date, this would be the most expeditious case that has proceeded to
12 date at the ICC.

13 Again, looking at the disclosure deadline, which is central to the residual matters that
14 we would need to prepare, the Prosecution has factored in significantly the obligation
15 that we all share to ensure the protection of witnesses in the situation in Libya.

16 We've also considered the need for us to finalise ongoing investigations, which will,
17 once final, also entail assessments and dialogue with the Victims and Witnesses Unit
18 in relation to protection of witnesses.

19 The preparation and finalisation of a pretrial brief is also contingent upon our ability
20 to protect witnesses, disclose their identity, and make adjustments as is needed. So
21 our timelines also include some staggering of the deadline to allow for an extra week
22 between final disclosure and provision of the pretrial brief, to which the Defence does
23 not oppose.

24 I'll have an opportunity, your Honours, to expand more significantly on what we say
25 are the significant protection issues that will impact our ongoing investigations but

1 also disclosure deadlines. And I'm grateful that your Honours will postpone your
2 decision on the eventual trial date until after you've had a chance to listen to and
3 absorb those critical submissions.

4 What I can say in this session is that the situation of security politically and militarily
5 in Libya is precarious and volatile. And as your Chamber have had an opportunity
6 to review certain decisions of the Pre-Trial Chamber, there is the meaningful potential
7 for disruption and harm to witnesses emanating from the circumstances in this case.
8 This will be one of the first, if not the first, cases before the ICC where the Court has
9 had no access to the situation in country up until this point, and that will continue
10 throughout the course of the trial.

11 Also, we recognise that the armed group to which Mr El Hishri allegedly was
12 associated with remains in power in Libya with significant influence and ability to
13 cause harm to the Prosecution's investigations and the case.

14 I can -- if your Honours wish to hear, the -- our proposals on the precise interim
15 deadlines and the dates, but these are set out in our submissions in writing. I leave it
16 in your hands as to whether or not you wish me to rehearse those at present.

17 PRESIDING JUDGE ALEXIS-WINDSOR: [9:42:00] Counsel, we have read your
18 submissions and thank you very much for your clarifications this morning.

19 All right. Shall we then have the Defence, if there's anything further to add.

20 MR HASSAN: [9:42:12] Thank you, your Honour.

21 I will not repeat any of the dates we agreed with Prosecution or the dates we set in
22 our motion, but I have to raise some point quickly.

23 First point about use expert witness, I think we will prefer to use our expert or discuss
24 this with OTP case by case.

25 And we ask all witnesses, viva voce witness, to be present in courtroom to testify

1 then.

2 And we ask also that the Prosecutor to deliver all disclosure to us as soon as possible
3 with no redaction at all, to be able to set up our investigations.

4 Regarding to use Arabic language in court, we will file a separate motion, show our
5 intention, and why we want to use Arabic language just in pleading and
6 cross-examine witness -- Arabic witnesses, not all witnesses. So, if there is a witness
7 from outside Libya, we will cross-examine him in English.

8 PRESIDING JUDGE ALEXIS-WINDSOR: [9:43:53] All right. Counsel, one moment.

9 So sorry to interrupt you. We will get to these issues, but at this very moment, do
10 you have any further submissions with respect to the commencement date of the
11 trial?

12 MR HASSAN: [9:44:03] We agree -- Thank you, your Honour. We agree with
13 Prosecution about starting date of the trial, so nothing to add in this point.

14 PRESIDING JUDGE ALEXIS-WINDSOR: [9:44:11] All right. Thank you very much,
15 counsel.

16 MR HASSAN: [9:44:14] Thank you. I have also another point that regarding --
17 (Counsel confers)

18 MR HASSAN: [09:44:30] -- about translation of the document by Registry. We will
19 ask --

20 PRESIDING JUDGE ALEXIS-WINDSOR: [9:44:38] All right. Counsel, may I have
21 these submissions a bit later.

22 MR HASSAN: [9:44:44] Okay.

23 PRESIDING JUDGE ALEXIS-WINDSOR: [9:44:45] Thank you so much.

24 MR HASSAN: [9:45:46] Thank you.

25 PRESIDING JUDGE ALEXIS-WINDSOR: [9:44:46] All right. Very well.

1 Right, the OPCV.

2 MS PELLET: [9:44:48] Thank you, Madam President.

3 PRESIDING JUDGE ALEXIS-WINDSOR: [09:44:49] Yes.

4 MS PELLET: [09:44:50] We have noted the joint proposed date of 8 June in
5 paragraph 10 of the joint submissions and we recognise the practical difficulties
6 identified therein. We accept that in light of these difficulties, the proposed date by
7 the victims might be difficult to achieve. However, we would respectfully submit
8 that these practical difficulties and considerations must be balanced against the
9 interests of victims for the trial to commence as soon as practicable. Indeed, some of
10 our clients have been waiting for more than 12 years for justice to be made. Against
11 this background, we respectfully urge you, Madam President, your Honours, to give
12 due weight to the passage of time already endured by the victims when determining
13 the date of the commencement of the trial. Thank you.

14 PRESIDING JUDGE ALEXIS-WINDSOR: [9:46:07] Counsel, in your submission, you
15 put forward the date -- well, a general date of January. You're now saying that
16 perhaps it is not feasible. Do you have any alternative date that you would like to
17 proffer?

18 MS PELLET: [9:46:25] Thank you, Madam President. I leave it in your hands,
19 but -- but we definitely believe that June might be very late. Late.

20 PRESIDING JUDGE ALEXIS-WINDSOR: [9:46:39] Late, okay. Very well, thank
21 you.

22 I don't suppose the Registry has any comments on this. Very well.

23 All right. So we move on then to item B, which is anticipated evidence. You would
24 look at the list and you would see that it includes any relevant updates from the
25 Prosecution since its submissions regarding the estimated number of witnesses,

1 documentary and other non-testimonial evidence to be relied upon at trial; use of
2 expert witnesses; practical modalities for audio-visual link for witness testimony; use
3 of Rule 68 of the Rules; potential Article 56 requests.

4 Prosecution, let us please hear you on these issues.

5 MS SAMSON: [9:47:33] Your Honours, the estimated number of witnesses has
6 remained the same. We have not made any amendments to -- to that number. The
7 projection of hours of testimony, while preliminary and, to a certain extent, an
8 estimate and maximum number, also remains the same.

9 The overall numbers of documentary and non-testimonial evidence also hasn't
10 changed. What has changed is that we've progressed in our review. We have
11 disclosed some additional items to the Defence since 26 August that we intend to rely
12 upon in the course of the trial. This has also included the disclosure of the identity
13 and full statements of two witnesses upon whom we had relied upon during the
14 confirmation hearing trial -- confirmation hearing proceedings, and we intend to
15 continue to disclose such evidence on an ongoing basis as and when we can.

16 Use of expert witnesses, your Honours, the approximate numbers remain the same as
17 set out in our joint submission. We've identified the areas of expertise of an
18 approximate 11 experts. Could be more, could be less, but that's the approximate
19 number at the moment. We have advanced in our discussions with some of them.
20 One of them we have submitted a letter of instruction and for others we are
21 progressing in that direction and hope to be able to do so soon. We can also, and
22 have not yet, liaise with the Defence on specific experts, but we intend to do so once
23 we have finalised our discussions and selected -- selected them.

24 Audio-visual link --

25 PRESIDING JUDGE ALEXIS-WINDSOR: [9:49:20] Sorry, before you move on from

1 the issue of experts, are we to understand that it is still the intention of the

2 Prosecution to put forward 11 experts?

3 MS SAMSON: [9:49:30] Correct, your Honour, yes.

4 PRESIDING JUDGE ALEXIS-WINDSOR: [9:49:31] And you have briefed them, you
5 have spoken to them?

6 MS SAMSON: [9:49:36] We have spoken to contextual experts, we have spoken to
7 experts on torture, experts on psychological impact of injury, and we continue to
8 reach out to other experts and identify those who may be most appropriate. Some of
9 the technical experts that we are considering for certain aspects related to satellite or
10 authentication of online or social media material may come in-house. But, indeed,
11 your Honour, we have identified a number of witnesses that we wish to call as
12 experts through the use of Rule 68(3) or (2)(b), depending on your judges' decisions,
13 and any ongoing discussion we may have with the Chamber and the Defence in
14 relation to those witnesses, and of course with the Office of Public Counsel for
15 Victims.

16 PRESIDING JUDGE ALEXIS-WINDSOR: [9:50:35] Is there -- have you considered
17 the possibility of some of the areas of expertise being possible to be done by or put to
18 the Court by one person?

19 MS SAMSON: [9:50:51] It is a possibility, your Honour. We've been considering,
20 for example, medical evaluations of witnesses could be done jointly between medical
21 and psychosocial experts. That's one area that could be condensed. Otherwise,
22 we've looked at experts on trauma, torture and medical assessments of injury to
23 corroborate the account as being sufficiently separate fields of expertise that they may
24 not merge -- they may not merge successfully. But we will continue to take your
25 Honours' guidance into account and see if we can condense and merge some of the

1 expertise together.

2 PRESIDING JUDGE ALEXIS-WINDSOR: [9:51:36] Similarly, counsel, how far
3 advanced are you with respect to having useful dialogue with the Defence with
4 respect to joint experts? The Chamber encourages such dialogue.

5 MS SAMSON: [9:51:53] Yes. We have had discussions in general terms about the
6 openness of the parties to engage in joint instruction and there is openness. What we
7 need to do is sit down and go through the names of the experts that we propose and
8 potentially names of experts the Defence proposes in order to see if that is the possible,
9 and that is a discussion that we have yet to have at that deeper level.

10 PRESIDING JUDGE ALEXIS-WINDSOR: [9:52:23] All right, counsel, move on.

11 MS SAMSON: [9:52:26] One last point, your Honour, on the experts is that we had
12 not included a disclosure date in our submissions in relation to experts, and what
13 we're proposing today is that the date of disclosure for the list of experts and reports
14 be commensurate with the disclosure date. So, at the latest, 8 March 2027.
15 We also note that we will provide as advanced notice as possible to the parties,
16 participants, but also the Registry, on any experts who -- who we wish to call who are
17 not already on the list of experts.

18 PRESIDING JUDGE ALEXIS-WINDSOR: [9:53:04] All right. So that's on the issue
19 of experts.

20 Moving on now to the issue of audio-visual link.

21 MS SAMSON: [9:53:13] Yes. So, as stated in our submissions, we intend to explore
22 the option of audio-visual link for witnesses where that may be appropriate. The
23 issue that we may face, as we will develop further in the *ex parte* hearing, is where is
24 the safest location for that take place, and that will require discussion with your
25 Honours, but also with the Registry who facilitate audio-visual link. We are not in a

1 position today to estimate the number of witnesses for whom this may apply, but we
2 do anticipate that it has used in other cases and it does work well where security
3 issues can be dealt with appropriately.

4 A final issue in relation to audio-visual is whether or not your Honours will require
5 authorisation from the Chamber in order to proceed to audio-visual. We have
6 proposed that in our submission. We note that in the Duterte trial, the Chamber has
7 opted not to acquire authorisation but, rather, simply to require notice by the party
8 calling the witness, after consultation with the Registry. So that is a matter for your
9 Honours to adjudicate.

10 PRESIDING JUDGE ALEXIS-WINDSOR: [9:54:25] Indeed.

11 MS SAMSON: [9:54:25] In relation to Rule 68 of the Rules, your Honours, we've
12 submitted that of the 85 approximate witnesses that we intend to call, approximately
13 40 we currently assess could -- we will apply for Rule 68, either 68(3), 68(2)(b) or 68(c).
14 We have given an approximate breakdown preliminarily of the number of witnesses
15 that may fall into each of those categories. We recognise that other Chambers have
16 encouraged the parties to make use of Rule 68(3) in order to ensure expeditious
17 proceedings, so we intend to abide by that in our deliberations. We expect currently
18 to call approximately half the witnesses viva voce which, in this case, we mean to
19 come entirely live before the Chamber. But it is an ongoing assessment and we
20 recognise that at some point in the course of the trial your Honours may decide that
21 you wish to use Rule 68 more after you've heard some of the evidence from the
22 witnesses.

23 In relation to our Article 56 requests, we have been, throughout the investigation and
24 pretrial proceedings, monitoring issues such as the health of our witnesses to assess
25 which witnesses may require an Article 56 application due to prospective

1 unavailability at trial. Currently, we anticipate definitely applying -- well, I should
2 say, currently, we anticipate that there is a likelihood that we will make an
3 application for one or two witnesses under Article 56 in relation to medical health
4 concerns. So it will not be extensive and it's under review.

5 We will abide by any timeline that your Honours deem fit for when those must be
6 made, but of course with flexibility, because health issues are things that we can
7 estimate today, but tomorrow we may learn something new and we'd have to make
8 an application at that time.

9 Subject to any questions you may have, your Honours, those are my submissions on
10 the -- on those points.

11 PRESIDING JUDGE ALEXIS-WINDSOR: [9:56:51] I do have some questions for you,
12 but please give me a moment.

13 (Discussion between the Chamber and the court officer)

14 PRESIDING JUDGE ALEXIS-WINDSOR: [9:57:06] Yes, counsel. With respect to
15 documentary evidence, what types of documentary evidence do you anticipate?
16 Satellite? Open source?

17 MS SAMSON: [9:57:22] Yes, your Honour. So, the non-testimonial documentary
18 evidence in our collection includes open-source reporting, reporting from, for
19 example, United Nations, NGOs, at times, media. We have other forms of
20 open-source documents, including from social media. We have another set of
21 open-source social media material, which is a number of profiles. We also have data
22 carriers, which we've noted in our written submissions, that require review. We will
23 have satellite imagery as well. At times, we have reports, internal documents,
24 medical records, and that type of -- that type of information. Maps -- maps as well,
25 your Honours.

1 PRESIDING JUDGE ALEXIS-WINDSOR: [9:58:34] Thank you, counsel. Do you
2 have anything further to add?

3 MS SAMSON: [9:58:40] Not on this agenda point. Thank you, your Honour.

4 PRESIDING JUDGE ALEXIS-WINDSOR: [9:58:44] Very well. Thank you.

5 Defence, do you have anything that you wish to submit in this regard?

6 MR HASSAN: [9:58:51] I think I raised several points before, but may I insist about
7 expert witness. We didn't receive any name from Prosecution until now, so we will
8 assess when we receive any name of expert. But, generally, I think we will use
9 different expert in some areas.

10 About use Rule 56, I think we will discuss this case by case with Prosecution. That's
11 it.

12 PRESIDING JUDGE ALEXIS-WINDSOR: [9:59:33] Thank you, counsel.

13 The OPCV, any comments?

14 MS PELLET: [9:59:40] Thank you, Madam President.

15 I do refer to our submission, paragraph 8 and 9. But let me just reiterate that at this
16 point in time it would be premature to indicate whether the Legal Representatives of
17 Victim will seek to have victims testify or appear in person, or whether they will seek
18 to call expert witnesses. We, therefore, as in our submission, respectfully request
19 that the legal representative be permitted to seek leave to present such evidence at the
20 close of the Prosecution's presentation of evidence.

21 PRESIDING JUDGE ALEXIS-WINDSOR: [10:00:30] Thank you, counsel.

22 All right. I don't suppose the Registry has any comments. Very well.

23 All right. So we move on then.

24 MS PELLET: [10:00:38] Sorry.

25 PRESIDING JUDGE ALEXIS-WINDSOR: [10:00:40] So, yes, counsel.

1 MS PELLET: [10:00:41] I have further points.

2 PRESIDING JUDGE ALEXIS-WINDSOR: [10:00:41] My apologies.

3 MS PELLET: [10:00:43] On the -- as regard expert witnesses, we respectfully request
4 where their testimony may affect the personal interests of the victims, to be invited to
5 participate in what you refer to as the useful dialogue and in the formulation of the
6 instructions provided to them.

7 And, finally, we have no observation at this stage regarding the use of prior recorded
8 testimony pursuant to Rule 68 of the Rules, but we note, however, that the use of
9 prior recorded testimony can be an important tool to -- in ensuring the expeditious
10 conduct of the proceedings. So the victims do support the use of such evidence,
11 provided, of course, that the requirements for their mission, as identified by other
12 Chambers of this Court, are met. Thank you, Madam President.

13 PRESIDING JUDGE ALEXIS-WINDSOR: [10:01:48] Thank you, counsel. And I'm
14 being very careful not to proceed before you are finished this time.

15 All right. So shall we then hear the parties, starting with the Prosecution, on the
16 issue of agreed facts. And may we say, before you do, that we again actively
17 encourage useful dialogue on this issue.

18 Prosecution, anything new to add that has not already been submitted in your written
19 submissions?

20 MS SAMSON: [10:02:18] Yes, your Honour. Last Friday, the Prosecution sent three
21 sets of agreed facts to the Defence, having to do with relevant locations in Libya,
22 cultural aspects relevant to the case, and matters related to the accused's biography,
23 and the Defence very quickly responded with a number of agreements. So the
24 Prosecution will notify the Chamber of the agreed facts that we've been able to reach
25 thus far. We will notify the Office of Public Counsel for Victims at that time and we

1 intend in the coming weeks to submit additional sets of agreed facts to the Defence
2 and we expect that there -- that again we will be able to submit additional agreed facts
3 to the Chamber for your Honours' consideration.

4 PRESIDING JUDGE ALEXIS-WINDSOR: [10:03:16] This is most excellent news,
5 counsel. But while you are on your feet, if I may. We'd like to hear you on the
6 request of the OPCV that victims should have the opportunity to express their views
7 and concerns on proposed agreed facts before the Chamber's ruling on whether it
8 accepts them as proven or whether a more complete presentation of the alleged fact is
9 required in the interests of justice.

10 MS SAMSON: [10:03:47] We have no principled opposition, your Honour, to
11 including the counsel for victims in the discussion on agreed facts. I take note of the
12 recent decision in the Duterte case by the Trial Chamber not to do so for reasons of
13 efficiency and to ensure that the parties are the entities who agree on the facts for
14 submission to the Chamber and that notice is provided to victims once that agreement
15 is made for them to make their observations to the Chamber at that time.

16 Again, the Prosecution has no principled objection to engaging with the counsel for
17 victims in advance of notification to the Chamber should you deem that to be the
18 appropriate route.

19 PRESIDING JUDGE ALEXIS-WINDSOR: [10:04:31] The issue, though, Madam
20 Prosecutor, is that Rule 69 speaks specifically to parties, does it not?

21 MS SAMSON: [10:04:39] Yes, your Honour. And that was indeed the decision of
22 the Trial Chamber in Duterte, that it is, in principle, a matter for the parties to agree
23 on, and it is for those reasons that the Chamber in Duterte held to exclude the victims
24 from the deliberations and to include them afterwards in the notification.

25 PRESIDING JUDGE ALEXIS-WINDSOR: [10:05:01] All right. We shall take that

1 into consideration.

2 All right. Defence, do you have anything to add?

3 MR HASSAN: [10:05:11] (Microphone not activated)

4 PRESIDING JUDGE ALEXIS-WINDSOR: [10:05:13] Thank you.

5 Mr Edwards, yes.

6 MR EDWARDS: [10:05:14] Your Honours, we share the in-principle position of the

7 Prosecution. Matters relating to agreed facts are matters between the parties.

8 We -- we have no principled objection to sharing the agreed facts that have

9 been -- that have been reached between the parties - that is, the Prosecution and the

10 Defence - and the victims will have the opportunity to make any observations they

11 may have about those agreed facts. And, of course, at the end of the day, agreed

12 facts are a matter for your Honour. Your Honours may feel that there are certain

13 agreed facts that do not protect adequately the interests of the victims, and you'll take

14 that into account. But, as a matter of principle, the victims have no role to play in

15 terms of the initial reaching of agreed facts between the parties; they are not a

16 secondary Prosecution.

17 PRESIDING JUDGE ALEXIS-WINDSOR: [10:06:13] All right, counsel. I am unclear

18 as to your position. Yea or nay?

19 MR EDWARDS: [10:06:20] I'm sorry. I was unclear then. We share the position of

20 the Prosecution in the sense that the victims should have the opportunity to make

21 submissions that they have on agreed facts once the agreed facts have been reached

22 between the parties, but they have no role to play in the elaboration of those agreed

23 facts between the parties.

24 PRESIDING JUDGE ALEXIS-WINDSOR: [10:06:45] All right. That is lucidly clear.

25 Thank you, counsel.

1 MR EDWARDS: [10:06:49] Thank you.

2 PRESIDING JUDGE ALEXIS-WINDSOR: [10:06:50] All right. Very well, then. So
3 we move on to --

4 MS PELLET: [10:06:53] Sorry, your Honour.

5 PRESIDING JUDGE ALEXIS-WINDSOR: [10:06:54] Yes.

6 MS PELLET: [10:06:55] Just for the sake of clarity --

7 PRESIDING JUDGE ALEXIS-WINDSOR: [10:06:56] Yes.

8 MS PELLET: [10:06:57] -- we do not consider it necessary to be involved in the
9 discussions between the parties reaching to the agreed facts. What we merely
10 requested was to be notified in a timely manner in order to be able to provide
11 observations, if need be, prior to your Honours' ruling on the agreed facts. But, of
12 course, we do not intend to intervene in the parties' discussions. The -- the issue is
13 clearly an issue of being notified in advance for your decision to be made after having
14 been -- had an opportunity to comment if need be. Thank you, your Honour.

15 PRESIDING JUDGE ALEXIS-WINDSOR: [10:07:46] Thank you, counsel. We will
16 take this into consideration.

17 All right. So we move on then to the next item on our agenda: Languages to be used
18 by the witnesses whom the party -- parties intend to call, and interpretation and
19 translation needs. Now, this is only to do with witnesses and victims, if we were to
20 get to that.

21 MS SAMSON: [10:08:14] Your Honour, we have no significant new information
22 since the filing. The experts that we intend to call will no doubt testify in English.
23 The -- a large portion of the witnesses will testify in Arabic, either standard Arabic or
24 Libyan dialect Arabic, and we will make assessments per witness in the coming
25 period. We've started a dialogue with the Language Services Section in that regard.

1 We'll continue to do that as we finalise the list of witnesses and ascertain the
2 languages to be used. We noted in the filing that there may be an additional
3 language, but, as yet, it is too preliminary to even suggest that that may be the case.
4 I do not yet know if we will rely on witnesses who speak other languages as yet, but
5 as soon as we reach that determination, we will keep your Honours informed, along
6 with the parties, participants and the Registry.

7 PRESIDING JUDGE ALEXIS-WINDSOR: [10:09:24] Thank you, counsel.

8 Defence, anything to add on this issue? Please note that if there are submissions
9 with respect to witnesses, we will hear you now. Submissions with respect to
10 counsel, we would like to have in writing subsequently, and we will give the dates.
11 Yes, counsel.

12 MR HASSAN: [10:09:42] So, your Honour, I think we make this point clear in our
13 joint submission and in our submission -- separate submission, so nothing more than
14 this. Thank you.

15 PRESIDING JUDGE ALEXIS-WINDSOR: [10:09:55] Thank you, counsel.

16 Registry. Please, we'd like to hear you on this issue: What is the status of the
17 knowledge or ability or capacity of the language services in the Registry to deal with
18 Libyan Arabic, as it is noted here?

19 MS DAHURON: [10:10:23] Yes, thank you, your Honours. The Language Services
20 Section of the Registry is prepared for these variation, let's say, of Arabic, which is
21 spoken in Libya. So this is not an issue for the Registry. The only point that the
22 Registry wishes to raise, but already Ms Samson has alluded to it, is that should there
23 be any other language than English, Arabic or French, and if that language is of
24 so-called lesser diffusion, the Registry needs ample prior notice because we would
25 need to secure the -- the staff and then possibly train them in advance. Thank you.

1 PRESIDING JUDGE ALEXIS-WINDSOR: [10:11:07] All right. Registry, I'm not
2 quite finished. So then to be clear, the Registry's position is that at this juncture,
3 there is no training necessary with respect to language services in relation specifically
4 to Libyan Arabic? It's all done, it's completed?

5 MS DAHURON: [10:11:29] Yes, your Honour.

6 PRESIDING JUDGE ALEXIS-WINDSOR: [10:11:31] All right.

7 Right, we move on then -- oh, so sorry.

8 MS PELLET: [10:11:40] Thank you, Madam President. I have nothing to add and I
9 refer to -- your Honours to paragraph 13 to 17. However, I note that the language
10 section is prepared to take into account the Libyan dialect in the Arabic translation
11 and this is very good news considering that it will allow your Honours to -- to have a
12 full picture of the nuances of the witnesses' testimonies.

13 With regard to other possible languages spoken by the victim, I share the views of my
14 colleague from the Prosecution that, well, for now, it is premature to be more -- and
15 I cannot be more precise in this regard. I refer to paragraph 16 of our submissions.
16 The languages required will depend on the origin of the victims admitted to
17 participate and also on possible migrant witnesses to be called either by the
18 Prosecution or potentially by the Legal Representative of Victims, and, at this stage,
19 we cannot provide an inform -- information, but we will do so as soon as we are able
20 to. Thank you, Madam President.

21 PRESIDING JUDGE ALEXIS-WINDSOR: [10:13:16] Thank you, counsel. All right.
22 If there are no further submissions on this issue, let us then move on to the issue of
23 disclosure.
24 Counsel, as before, your submissions in your written submissions were clear. Please
25 tell us if you have anything to add.

1 MS SAMSON: [10:13:35] Your Honour, no significant update. We've continued to
2 disclose items that may fall under Rule 77 or Article 67(2) to the Defence, several
3 hundred, approximately, more than the numbers that were cited in our filing. And
4 we continue the review, as I've mentioned earlier, of the phone carriers, social media
5 and that category of evidence. And we will -- I've had a preliminary discussion with
6 the Defence, but I will do it more formally to enter into an agreement on a framework
7 by which we could allow them access to the complete and total pool of material that
8 may fall under the social media and/or data carrier set to allow them inspection, the
9 ability to inspect in using tools that are appropriate to the type of information we
10 have, while disclosing at the same time, the discrete items we may wish to rely upon
11 and find a framework by which the Defence could perform their own searches
12 through the material and request disclosure of specific items. That is one -- one
13 option that we are exploring.

14 We are continuing focussed investigations. Again, as we've alluded to in our filing,
15 we don't anticipate that this will delay the timelines proposed or the start of trial.
16 Ongoing investigations, even if discreet, have challenges which I will develop during
17 the *ex parte* session and from them also come various next steps, including in relation
18 to witness protection, transcription potentially, translation, and therefore we have
19 factored those steps into the timelines that we have provided to the Chamber in our
20 written submissions.

21 For protective measures of witnesses to -- which is also under this particular agenda
22 point, we will more significantly develop, with your Honours' indulgence, those
23 submissions during the *ex parte* hearing. But we have engaged with the Victims and
24 Witnesses Unit. We have progressed referrals. There are a few more for us to
25 finalise and transfer. And we've been engaging with the Victims and Witnesses Unit

1 on timing for assessments and next steps. But again, for the complete and fuller
2 exposition of these issues, I will expand during the *ex parte* conference.

3 PRESIDING JUDGE ALEXIS-WINDSOR: [10:16:12] All right. Thank you, counsel.
4 But, in particular, what is your position with regards to the request of the Defence for
5 disclosure of the identities of witnesses which have been withheld from the Defence
6 to date without delay and, in any event, no later than 30 days after the first status
7 conference?

8 MS SAMSON: [10:16:38] Our position, your Honour, on that request is that it is not
9 consistent with past practice but also not feasible in the current security landscape.
10 There were justified robust reasons in the Chamber's, at the pretrial stage, decision to
11 include protections for these witnesses and we are working swiftly to be able to
12 disclose. We've disclosed two of those witnesses this week. We will assess an
13 additional three that we may be able to disclose in the coming weeks, but we cannot
14 reliably commit today to a 30-day deadline for disclosure of the remaining witnesses
15 because there were a significant number of witnesses whose identity was protected by
16 the Pre-Trial Chamber at that stage.

17 I would also welcome the submissions of the Victims and Witnesses Unit in relation
18 to that request because much will depend on their capacity to finalise the reviews that
19 we've referred to them.

20 PRESIDING JUDGE ALEXIS-WINDSOR: [10:17:45] Thank you, counsel.

21 Do you have any further submissions on proposed dates for filing any request for
22 delayed disclosure or any other forms for exception to disclosure?

23 MS SAMSON: [10:17:59] We intend to make such requests as early as possible. We
24 have submitted in our filing that we do it by the disclosure deadline of 8 March 2027.
25 But of course recognising that that final deadline does not in any way suggest that we

1 intend to wait until that date for disclosure where it can be done beforehand or for
2 any applications that require adjudication early.

3 PRESIDING JUDGE ALEXIS-WINDSOR: [10:18:27] All right. Counsel, I'm going
4 to ask you a question, but before I do, tell me whether it is possible for you to answer
5 this question in open session. And if not, do -- of course do not proceed. The
6 question is, in relation to the 75 documents pending translation -- well, before I get to
7 that, is the Prosecution able to provide an estimate of the timeline for the review of
8 the 3,000 items, including third party data carriers and social media data? Should
9 we have that in a closed session?

10 MS SAMSON: [10:19:15] Your Honour, I can provide an answer to that. The
11 non-data carrier review could be completed in several months. The review of the
12 data carriers will take longer and we estimate three months.

13 PRESIDING JUDGE ALEXIS-WINDSOR: [10:19:29] All right. Very well. And in
14 relation to the 75 documents pending translation, what languages are these
15 documents in?

16 MS SAMSON: [10:19:38] They are in Arabic.

17 PRESIDING JUDGE ALEXIS-WINDSOR: [10:19:48] All right. Do you have
18 anything further to add, counsel?

19 MS SAMSON: [10:19:52] Yes, on the disclosure deadline in relation to the
20 incriminating items of evidence, those upon --

21 PRESIDING JUDGE ALEXIS-WINDSOR: [10:19:54] Yes.

22 MS SAMSON: [10:19:55] -- which we intend to rely, there is a difference of opinion
23 between the Prosecution and the Defence in our submissions.

24 PRESIDING JUDGE ALEXIS-WINDSOR: [10:20:02] Yes, we have noticed.

25 MS SAMSON: [10:20:03] Yes. So the Prosecution simply reiterates its request that

1 the Chamber follow the practice of other Chambers to find that three months in
2 advance of trial is a sufficient deadline for disclosure of the final items upon which we
3 intend to rely.

4 Lastly, your Honour, we have submitted additional requests since 26 August for
5 translation from Arabic into English of items emanating from our review of data
6 carriers and social media. Several hundred items have been submitted to our
7 translation unit. We anticipate that those will be dealt with in the coming months.

8 PRESIDING JUDGE ALEXIS-WINDSOR: [10:20:42] Very well. All right. So if
9 you have nothing further to add, Defence, is there anything you wish to add?

10 MR HASSAN: [10:20:49] In general, for all is the last points, the Defence insists that
11 disclosure should be completed by 8 February, as we mention in our filing. And the
12 other point, also, to disclose the remain document -- our remain disclosure with OTP,
13 disclose it as soon as possible. But we insist to remove all redaction about witness
14 identity to be able to do our investigation. Thank you, your Honour.

15 PRESIDING JUDGE ALEXIS-WINDSOR: [10:21:27] Thank you, counsel.

16 The OPCV, any comments?

17 MS PELLET: [10:21:33](Interpretation) Thank you, your Honour. I have no
18 comments in that regard.

19 PRESIDING JUDGE ALEXIS-WINDSOR: [10:21:42] Thank you.

20 All right. So moving on to another issue. In the joint submission in paragraph 24, it
21 was noted that the Prosecution would request that by way of formal filing, the
22 Defence should put before the Trial Chamber the principal matters of fact or law for
23 which the Defence takes issue in the Prosecution's case and the reasons for such issue
24 being taken and, as well, the general nature of the accused's defence, including any
25 particular defence under Rules 79 and 80 of the Rules on which he intends to rely.

1 Now, it was a joint submission, but with respect to this paragraph, paragraph 24, it
2 specifically referred to the Prosecution. No doubt the Prosecution still stands by this
3 submission in the joint submission and has nothing to add.

4 I would like to hear the Defence though.

5 But before I do, I would like to emphasise Article 64(3) of the Statute, which
6 empowers the Chamber to adopt such procedures as are necessary to facilitate the fair
7 and expeditious conduct of the case, so that with respect to what is already in the joint
8 submission and with respect to the Chamber's remit to facilitate the fair and
9 expeditious conduct of the case, what is the position of the Defence or what does the
10 Defence say in relation to this issue?

11 MR EDWARDS: [10:24:10] Your Honour, if the -- if the Trial Chamber believes that
12 such a document might be of assistance, then we will of course file something that
13 complies with the Chamber's directions. It was done in the Abd-Al-Rahman case.
14 A similar order was made -- was made in the Duterte case. And we have no
15 objection to making such a filing. It will not be a -- a Defence trial brief in the sense
16 of the document that we would want to file in advance of the Defence case, but in as
17 much as it will deal with matters of fact and law with which the Defence take issue
18 and the reasons why, if the Trial Chamber believes that that would be helpful, we will
19 comply.

20 PRESIDING JUDGE ALEXIS-WINDSOR: [10:25:04] We do believe it will be helpful
21 and we appreciate that it is not a Defence brief. All right. But thank you, counsel.

22 MR EDWARDS: [10:25:08] Thank you.

23 PRESIDING JUDGE ALEXIS-WINDSOR: [10:25:09] All right. I don't suppose the
24 OPCV have comments with respect to this and neither do the Registry.

25 All right. With respect to the provision of trial briefs, does any party or participant

1 wish to make any further submissions on this? I expect not.

2 No. All right, then.

3 With respect then to motions requiring resolution prior to the commencement of the
4 trial, any further submissions?

5 Defence, yes, let's hear you, Defence.

6 MR HASSAN: [10:25:52] Thank you, your Honour. I think we have -- we still have
7 jurisdiction issue pending on jurisdiction of this Court and still in Appeals Chamber,
8 so I think it will be reason to be considered in this regard.

9 PRESIDING JUDGE ALEXIS-WINDSOR: [10:26:13] Thank you, counsel.

10 With respect to the issue of victims' participation and legal representation in the
11 proceedings, the Chamber would like to hear submissions from the parties, and
12 particularly the OPCV, on the following issues raised in the written submissions:

13 One, the deadline for submission, and the transmission of victims application forms
14 for participation in the trial proceedings.

15 OPCV.

16 MS PELLET: [10:26:52] Thank you, Madam President. As also acknowledge by the
17 Registry in paragraph 14 of its report, it is of paramount importance to allow victims
18 a sufficient time frame to engage in the application process and, consistent with this
19 Court's practice, victims should be able to submit their application for participation
20 until the end of the Common Legal Representatives' case or at least, at minimum,
21 until the close of the Prosecution's presentation of evidence.

22 It is not news to anybody that the current number of applications received by the
23 VPRS in the present case is far from reflecting the full scale of victimisation, and
24 allowing this broad period of time will, we hope, cater for a more representative
25 victimisation represented in the present case.

1 At present, the VPRS has received 105 applications concerning a total number
2 of -- this -- sorry, 105 is a different number than the one referred to in the report
3 because we submitted five applications yesterday, and these 105 applications
4 represent a total of 120 victims falling within the scope of the case. Obviously, this is
5 not in adequation with the full victimisation and that's why we urge your Honours to
6 take that into account when deciding on the period for the victims to be able to apply
7 for participation. I thank you.

8 PRESIDING JUDGE ALEXIS-WINDSOR: [10:29:13] And while you are already
9 addressing us, what have you to say in relation to the collection of applications and
10 the related information from victims for the purposes of any possible future
11 reparations should there be a need?

12 MS PELLET: [10:29:33] All applications submitted thus far concern both
13 participation and reparation, so currently the only thing I can -- I can say, subject to
14 my colleague from the VPRS, is that the 120 victims falling within the scope of the
15 case, having already requested to participate, are also requesting reparations in the
16 present case in the form which is common participation and reparation.

17 PRESIDING JUDGE ALEXIS-WINDSOR: [10:30:13] Thank you.
18 Anything else to add, counsel?

19 MS PELLET: [10:30:21] Not on victims participation, only on legal representation, so
20 I will address these issues when you are ready to hear them.

21 PRESIDING JUDGE ALEXIS-WINDSOR: [10:30:32] Perhaps you can address us
22 now on those issues.

23 MS PELLET: [10:30:40] I will certainly do so, your Honour.

24 So turning to legal representation, we refer to our submission dated 25 August at
25 paragraph 23 to 27. As indicated therein, the OPCV remains available to represent

1 the victims during trial, whether in a stand-alone team or in cooperation with external
2 legal representatives.

3 We note the constitution by the VPRS of a selection panel, as referred to in paragraph
4 26 of the annex to the Registry report. In the absence of further information on the
5 composition and mandate of said panel, and given that we have not been consulted in
6 this regard, we are not presently in a position to make an informed -- to make any
7 informed observations on the process.

8 Let me just inform you that on the 120 victims I referred to earlier, 79 have expressed
9 a wish to be represented by the OPCV. And, more importantly, a significant number
10 of admitted victims or applicants are dual status victims, or potential dual status
11 when it comes to applicants. Their particular circumstances, including their
12 protection and well-being, obviously, should be carefully given consideration by your
13 Honours when determining the arrangements for their legal representation.

14 Against this background, I would respectfully submit that clarity regarding the
15 arrangements for legal representation -- sorry -- sorry, I will continue -- that the clarity
16 regarding the arrangements for legal representation should be provided at the earliest
17 possible opportunity. This is essential first for the victims themselves to be informed
18 on their legal -- the arrangements for their legal representation, but also for their legal
19 representative or representatives to enable them to prepare effectively for trial and,
20 importantly, to be able to consult their clients in a meaningful way.

21 So we will again urge these arrangements to be taken at the earliest possible time for
22 all these reasons. I do thank you.

23 PRESIDING JUDGE ALEXIS-WINDSOR: [10:33:49] Thank you, counsel.

24 Prosecution, do you have anything to add?

25 MS SAMSON: [10:33:54] No, no, your Honour.

1 PRESIDING JUDGE ALEXIS-WINDSOR: [10:33:57] Very well.

2 Defence?

3 MR HASSAN: [10:34:00] Nothing to add, your Honour.

4 PRESIDING JUDGE ALEXIS-WINDSOR: [10:34:03] Very well. Thank you.

5 Registry.

6 MS DAHURON: [10:34:07] Yes, my colleague from the Victims Participation and

7 Reparations Section will now address the Chamber.

8 PRESIDING JUDGE ALEXIS-WINDSOR: [10:34:15] Thank you.

9 MR AMBACH: [10:34:16] Thank you very much, your Honours. I just wanted to
10 add, first of all, starting with the issue of participation, that as for the deadline
11 proposed by the Common Legal Representative for submitting victim applications to
12 the Chamber, the Registry takes note and supports this submission. In this regard,
13 in particular owing to the security situation that has already been addressed, the
14 Registry refers to its submission also in the Duterte case where it could be
15 contemplated by the Chamber to even extend the submission deadline to the end of
16 the trial, again owing to the specific circumstances and for reasons that were brought
17 forward at that juncture.

18 Regarding the collection of victim -- of victim information regarding a potential
19 reparation phase, the Chamber may find it convenient to instruct the Registry at the
20 beginning of trial to collect this reparation related information from potential
21 reparation beneficiaries throughout the trial process, to file then a victim mapping
22 report within 30 days of the notification of a potential Article 74 judgment should
23 there be a conviction. This would also follow previous practice of previous cases.
24 Once I'm at this point, to facilitate the exercise in previous cases, the Registry had
25 requested and obtained access to the confidential case record. This provided

1 extremely help and insightful for the Registry report regarding specific victim matters
2 that would have been adduced by the parties on the case record.

3 As for the issue of legal representation, the process is ongoing. The interviews with
4 potential counsel have been finalised. I make reference to our submission that we
5 would address the Chamber on -- with a full briefing on the matter by 30 September.
6 Thank you very much.

7 PRESIDING JUDGE ALEXIS-WINDSOR: [10:36:57] Thank you, counsel. And you
8 have anticipated my next question which had to do with the mapping report. All
9 right. You've already answered it.

10 One moment, please.

11 MS PELLET: [10:37:08] Madam President, if I may.

12 PRESIDING JUDGE ALEXIS-WINDSOR: [10:37:11] Yes, you may.

13 MS PELLET: [10:37:12] Regarding -- sorry. Regarding the mapping, we do favour,
14 of course, a mapping regarding reparations.

15 Regarding documents to be collected with regard to reparations with regard to
16 specific victims, we respectfully submit that doing so in the course of the trial might
17 raise expectations and that can be done after conviction. It is our submission, and
18 because of our dealing with victims, we noted that this can be an issue. The fact that
19 I was referring to earlier was that the victims are seeking, requesting to participate
20 both in the participation -- in the trial and in future reparation proceedings should be
21 sufficient for trial, but having to request a full file from the victims who have
22 requested reparations, we would suggest that this is premature and this might raise
23 expectations in this regard. They are explained what reparations are entailed
24 because of the questions in the form, but -- but requesting more might really raise
25 expectations in this regard. Thank you, your Honour.

1 PRESIDING JUDGE ALEXIS-WINDSOR: [10:38:55] Noted, counsel.
2 The OTP, please, may we hear you. The Registry has just put before us a question
3 with respect to access to the confidential case record. Do you have any comments on
4 that? And I will also ask the Defence. But first the OTP.
5 MS SAMSON: [10:39:21] No objection, your Honour.
6 PRESIDING JUDGE ALEXIS-WINDSOR: [10:39:23] And the Defence?
7 MR HASSAN: [10:39:26] I welcome to release everything to everyone.
8 PRESIDING JUDGE ALEXIS-WINDSOR: [10:39:32] Thank you, counsel.
9 All right. We move on --
10 MR AMBACH: [10:39:50] Your Honour.
11 PRESIDING JUDGE ALEXIS-WINDSOR: [10:39:51] Yes.
12 MR AMBACH: [10:39:52] If I may very briefly just clarify one quick matter --
13 PRESIDING JUDGE ALEXIS-WINDSOR: [10:39:56] Yes.
14 MR AMBACH: [10:39:57] -- which was raised by counsel of victims. The data that
15 the Registry would collect in terms of reparation proceedings is confined to what you
16 currently find in the standard application form on the reparations portion, so this is
17 exactly what counsel referred to as information we have already received from
18 victims so far and we would just continue on that scale of information requesting of
19 victims, not something more extensive. Just to clarify the matter. Thank you.
20 PRESIDING JUDGE ALEXIS-WINDSOR: [10:40:30] Thank you.
21 Counsel for the OPCV, on that clarification of the Registry, are you satisfied? Do
22 you maintain your position? Do you have any further submission?
23 MS PELLET: [10:40:45] I am satisfied that if they concern only the information
24 already -- already provided in the form, then I see no -- no other observations to be
25 put before the Chamber. My concern was if more was going to be requested from

1 the victims at this stage. Thank you, Madam President.

2 PRESIDING JUDGE ALEXIS-WINDSOR: [10:41:16] All right. Thank you.

3 One moment, please.

4 (Trial Chamber confers)

5 PRESIDING JUDGE ALEXIS-WINDSOR: [10:42:38] All right. So we go on now to
6 the continued application and adoption of additional protocols.

7 On this issue, the Chambers notes that there appears to be agreement among the
8 parties and participants in relation to the continued application and content of a
9 number of protocols. Regarding witness preparation and related protocols, as well
10 as the eCourt protocol, the Chamber will decide on these issues in its rulings on the
11 conduct of proceedings. On the remaining three protocols - namely, the handling of
12 confidential information during investigations and contact with witnesses, the dual
13 status individuals, and the redaction protocol - the Chamber notes that the relevant
14 practice is well established at the Court, that they were adopted at the pretrial stage in
15 the present case and that their continued application for the purpose of this trial seem
16 at this point to us to be uncontentious.

17 Accordingly, the Chamber instructs the Registry to liaise with the parties and
18 participants and, in case of agreement, to put relevant updated versions thereof on
19 the record by 18 September 2026. If needed, the Registry should do so with a report
20 on the proposed amendment to these protocols, identifying if and where
21 disagreements exist. All right? Very well.

22 All right. In relation to the OPCV's request for a room for victims to attend
23 proceedings in The Hague, the Chamber invites the OPCV to liaise with the Registry
24 on this issue.

25 This concludes -- unless anyone wishes to address us?

1 Counsel.

2 MR EDWARDS: [10:44:58] Your Honour, yes. Can I just go back to the agenda
3 item regarding additional protocols. Your Honour mentioned a forthcoming order
4 on the conduct of proceedings.

5 PRESIDING JUDGE ALEXIS-WINDSOR: [10:45:14] Yes.

6 MR EDWARDS: [10:45:15] In the Duterte case, the -- the Trial Chamber invited any
7 submissions from the parties if they have any observations to make about any specific
8 items on any forthcoming order on the conduct of proceedings, and that precipitated
9 some, we would suggest, useful submissions from the parties and, indeed, I think
10 from the victims as well. And that being the case, we would respectfully request the
11 opportunity from the Defence Bar the opportunity to make some submissions on
12 items in such an order.

13 As a matter of principle -- if you want me to go into a little bit more detail, I'm happy
14 to, but it's simply that before such an order is set in stone, or at a least preliminary
15 order is set in stone, we'd like the opportunity to make some submissions.

16 PRESIDING JUDGE ALEXIS-WINDSOR: [10:46:18] Indeed, counsel. Would you
17 like to make those submissions now or would you like to make them in writing
18 thereafter, perhaps?

19 MR EDWARDS: [10:46:24] I think in writing would be most efficient.

20 PRESIDING JUDGE ALEXIS-WINDSOR: [10:46:27] Indeed. We agree.

21 MR EDWARDS: [10:46:29] Thank you.

22 PRESIDING JUDGE ALEXIS-WINDSOR: [10:46:30] All right. Very well.

23 MR EDWARDS: [10:46:31] And there was one other matter, and in fact it comes
24 back to some of the submissions being made by the Registry and my learned friend
25 for the victims, and I think it's probably important to put it on the record. A great

1 deal was -- was spoken about in terms of reparations and reparations on conviction.

2 We are at the very start of this case. The charges have only just been confirmed.

3 Mr El Hishri is entitled to the presumption of innocence and he will be entitled to the
4 presumption of innocence until such time as this Trial Chamber renders a judgment
5 finding otherwise. Talking about --

6 PRESIDING JUDGE ALEXIS-WINDSOR: [10:47:15] And we agree wholeheartedly.

7 MR EDWARDS: [10:47:18] Yes. It's important to put on the record, I submit,
8 however, that talk about reparations on conviction and all the rest of it, whilst
9 understandable to some extent, is, nevertheless, enormously premature. The public
10 must understand that reparation orders will and can only be made in the event of a
11 conviction, and we are at the very, very start of these proceedings.

12 PRESIDING JUDGE ALEXIS-WINDSOR: [10:47:50] We take your point,
13 Mr Edwards, but at this juncture, it is administrative for the efficient running of the
14 case and does not, we reiterate, in any way suggest any finding by the Chamber with
15 respect to the criminal liability or none of Mr El Hishri.

16 MR EDWARDS: [10:48:17] Thank you.

17 PRESIDING JUDGE ALEXIS-WINDSOR: [10:48:27] All right. So, one moment.

18 All right, very well, then. I'm looking through my topics here and I see that this
19 concludes what the Chamber wished to address today at this juncture before we
20 move on to another portion of the status conference. So that, finally, does any party
21 or participant wish to, at this stage, make any comment? OTP.

22 MS SAMSON: [10:49:12] No further observations. Thank you, your Honour.

23 PRESIDING JUDGE ALEXIS-WINDSOR: [10:49:15] Defence.

24 MR HASSAN: [10:49:17] Thank you, your Honour. For now, nothing.

25 PRESIDING JUDGE ALEXIS-WINDSOR: [10:49:20] Very well.

1 OPCV.

2 MS PELLET: [10:49:23](Interpretation) Thank you, Madam President. We have
3 nothing more to add.

4 PRESIDING JUDGE ALEXIS-WINDSOR: [10:49:32] *Merci*.
5 Registry.

6 MS DAHURON: [10:49:33] Your Honour, we might have a request for a clarification
7 from our colleague from the victim and witnesses section.

8 PRESIDING JUDGE ALEXIS-WINDSOR: [10:49:38]

9 MS BALFAS: [10:49:40] Thank you, your Honour, if I may. We also recommended
10 the adoption for vulnerability protocols in the Registry submission and I wonder if
11 that is also included in related protocols that your Honour mentioned during the part
12 of the witness preparation. Thank you, your Honour.

13 PRESIDING JUDGE ALEXIS-WINDSOR: [10:50:00] Yes, very well. Yes, thank you,
14 Registry. It is. All right. Very well.

15 MS BALFAS: [10:50:09] Thank you, your Honour.

16 PRESIDING JUDGE ALEXIS-WINDSOR: [10:50:14] All right. Very well, then.

17 Since we have completed our listed agenda items, this concludes the first part of the
18 status conference.

19 So we will now take the break a bit early. It is 10 to 11. So we will meet again at 20
20 after 11.

21 Court officer, is that enough time?

22 (Discussion between the Chamber and the court officer)

23 PRESIDING JUDGE ALEXIS-WINDSOR: [10:50:40] All right. Very well. Yes, so
24 at 20 after 11 for the *ex parte* session.

25 All right? So, if there is nothing more at this point, thank you.

Status Conference

(Open Session)

ICC-01/11-01/25

- 1 (Discussion between the Chamber and the court officer)
- 2 PRESIDING JUDGE ALEXIS-WINDSOR: [10:51:07] All right. I've been reminded
- 3 of the issue of the transcript. So we need to take a 45-minute break, and not a 30.
- 4 All right. So that we would meet again at 11:35? Yes?
- 5 Very well then. Thank you very much to all parties and participants for a very
- 6 useful status conference.
- 7 THE COURT USHER: [10:51:43] All rise.
- 8 (Hearing ends in open session at 10.51 a.m.)