

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/11-01/25
Date: 30 September 2026

TRIAL CHAMBER VII

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

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

Public

**Joint Prosecution, Defence, and CLRV Submissions on the Directions on the
Conduct of Proceedings**

Source: Office of the Prosecutor
Defence of Mr Khaled Mohamed Ali El Hishri
Office of Public Counsel for Victims

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

☒ The Office of the Prosecutor

☒ Counsel for the Defence

☐ Legal Representatives of the Victims

☐ Legal Representatives of the Applicants

☐ Unrepresented Victims

☐ Unrepresented Applicants
(Participation/Reparation)

☒ The Office of Public Counsel for Victims

☐ The Office of Public Counsel for the Defence

☐ States' Representatives

☐ Amicus Curiae

REGISTRY

Registrar

M. Zavala Giler, Osvaldo

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and
Reparations Section

☐ Other

A. INTRODUCTION

1. The Prosecution, Defence, and Counsel from the Office of the Public Counsel for Victims (the “OPCV”) provisionally appointed as Common Legal Representatives (the “CLRV”), provide the following joint submissions in accordance with the Order inviting submissions on Directions on the Conduct of Proceedings (the “Order”) issued by Trial Chamber VII (the “Chamber”) on 17 September 2026.¹

2. The Defence will provide separate submissions complementing the submitted proposals below. The Prosecution and the CLRV will not file separate submissions. Where the Parties and/or the CLRV are not in agreement with the proposals set out below, this is indicated accordingly. Unless otherwise specified, these submissions do not address the items and topics that have already been decided in the Chamber’s Decision Setting the Commencement Date of the Trial.²

B. PROCEDURAL HISTORY

3. On 3 September 2026, during the first status conference, the Chamber indicated its intention to invite the Parties and the CLRV to file submissions before the Chamber issues its Directions on the Conduct of Proceedings in accordance with Article 64(8)(b) of the Statute and the established practice of the Court.³

4. On 14 September 2026, the Chamber issued its Decision Setting the Commencement Date of the Trial, wherein the Chamber set the trial date for 4 May 2027 as well as several deadlines for matters leading up to the commencement of the trial.⁴

5. On 17 September 2026, the Chamber issued the Order, inviting the Parties, the CLRV, and Registry to provide submissions by 30 September 2026 in respect of the Chamber’s soon-to-be-issued Directions on the Conduct of Proceedings, including whether the rendering of a potential sentencing decision should be made simultaneously with the Chamber’s Article 74 judgment, in case of a conviction.⁵

¹ Order inviting submissions on Directions on the Conduct of Proceedings, 17 September 2026, [ICC-01/11-01/25-185](#).

² Decision Setting the Commencement Date of the Trial, [ICC-01/11-01/25-183](#), 14 September 2026.

³ Transcript of hearing on 3 September 2026, [ICC-01/11-01/25-T-007](#), p. 32.

⁴ Decision Setting the Commencement Date of the Trial, [ICC-01/11-01/25-183](#), 14 September 2026.

⁵ Order inviting submissions on Directions on the Conduct of Proceedings, 17 September 2026, [ICC-01/11-01/25-185](#).

6. On 28 September 2026, the Parties and CLRV met to discuss directions on the conduct of proceedings and any proposals for deviations from the Court's jurisprudence. Unless indicated below, the Parties and the CLRV agreed on the following submissions.

C. SUBMISSIONS

7. Further to the Chamber's instructions that proposed deviations from the Court's jurisprudence be justified, the Parties and the CLRV request that the Chamber adopt Trial Chamber III's Directions on the Conduct of Proceedings in the case of *Duterte* (the "*Duterte* Directions") as a model for this Chamber's Directions on the Conduct of Proceedings, subject to the proposed deviations below and any other deviations that the Chamber accepts based on separate submissions.⁶ The Parties also make submissions in support of the Article 74 judgment being delivered separately from any potential sentencing decision that may be rendered in the event of conviction on one or more counts. The CLRV take a different position as set out below.

1. Trial Briefs

8. The Parties made a joint request that there be a limit of 200 pages, excluding annexes, for the Prosecution Trial Brief.⁷ The Prosecution considers that this page limit is justified by the need to fully reflect the scope of the 17 confirmed charges of crimes against humanity and war crimes in this case, including the nexus to the armed conflict and extensive alleged incidents of direct perpetration spanning over six years with numerous victims and several modes of liability.⁸ The CLRV do not oppose the request.

9. The Defence respectfully requests that it also be authorised to file any Defence Trial Brief, after the conclusion of the Prosecution's and LRV's cases, limited to 200 pages, excluding annexes. The Prosecution and CLRV do not oppose this request.

10. The CLRV propose that the common legal representatives be authorised to submit, if they so wish, a single trial brief of no more than 120 pages. The Parties do not object to this proposal.

⁶ See in particular, *Duterte* Directions on the conduct of proceedings, [ICC-01/21-01/25-471](#), 19 June 2026 ("*Duterte* Directions"); See also Chambers' Practice Manual, para. 84.

⁷ Joint Prosecution and Defence submissions pursuant to the "Order scheduling first status conference", 25 August 2026, [ICC-01/11-01/25-169](#), paras. 19-20.

⁸ Joint Prosecution and Defence submissions pursuant to the "Order scheduling first status conference", 25 August 2026, [ICC-01/11-01/25-169](#), para. 19.

2. Opening statements

11. The Prosecution anticipates that it shall require six hours to complete its opening statement and respectfully requests that it be allocated this duration in the Directions on the Conduct of Proceedings. The Prosecution also notes that in *Duterte*, the Prosecution's opening statement was set for six hours.⁹ Given that the 17 crimes charged in this case relate to a period of over six years, the Prosecution contends that a duration of six hours for its opening statement is entirely justified, ensuring efficient use of the Court's time while allowing the Prosecution to present its case appropriately. The Defence and OPCV do not object to this proposed duration.

12. The Defence respectfully requests that it also be permitted six hours to make its opening statement, whether that statement be made before the Prosecution calls its first witness, or immediately before the Defence calls its first witness. The Prosecution and OPCV do not oppose this request.

13. The CLRV propose that the common legal representatives be allocated three hours in total to provide an opening statement in the case. The Parties do not object. The CLRV further propose to inform the Chamber 15 days prior to the commencement of the trial whether they intend to present their opening statements at that juncture.¹⁰

3. Documentary, digital or physical evidence

14. For increased clarity with respect to the procedure to be followed for the formal submission of evidence, the Prosecution and the CLRV jointly submit that the Directions on the Conduct of Proceedings should specify that submitted evidence be reflected in the eCourt metadata of each item of evidence. This clarification should be added to the text of paragraph 41 of the *Duterte* Directions and be adopted as such in this Chamber's Directions on the Conduct of Proceedings as follows:

“Through this process each item of evidence which is submitted (in batches or otherwise) will be formally recognised as submitted. *Its status as submitted will accordingly be reflected in the eCourt metadata of each item of evidence.* For large or lengthy items of evidence, although the entire item will be submitted, the submitting party must specify the portion or portions shown to the witness, and about which the witness has given evidence. Only those portions will be relied upon by the Chamber, unless the Chamber decides otherwise.”

⁹ *Duterte* Directions, para. 21.

¹⁰ *Duterte* Directions, para. 24.

15. The Defence will provide its separate submissions requesting the Chamber to adopt the admission of evidence regime. However, should the Chamber decide to adopt the submission of evidence regime, the Defence does not oppose the proposed clarification.

16. The Parties and the CLRV highlight that this clarifying addition is consistent with past Court practice, including in the Directions on the conduct of proceedings in *Abd-Al-Rahman*.¹¹

4. Witnesses

i. Order of questioning

17. For an efficient and logical order of questioning pursuant to Regulation 43 of the Regulations of the Court, and based on established Court practice, the Parties and the CLRV agree on a proposed deviation from Trial Chamber II's adopted procedure noted in paragraph 43 of the *Duterte* Directions. In particular, they agree that if the calling party is the Prosecution, it should conduct its questioning of the witness first, followed by the questioning by the legal representatives, if any, and thereafter by the questioning by the Defence. However, if the calling party is the Defence, then after the Defence's questioning, the Prosecution should conduct its questioning of the witness second, followed by the questioning by the legal representatives, if any. The proposed sequence does not in any way diminish the Defence's right to challenge evidence nor the victims' representatives' opportunity to address matters within their mandate. As the legal representatives' questioning would be dependent on the questions by the Prosecution and would be limited to matters addressing victims' views and concerns, this proposed sequence reflects a logical order that would facilitate a more orderly and comprehensive questioning of witnesses without risk of overlap and while preserving the fairness of the proceedings.

18. Moreover, this proposed order has been used regularly in Court practice,¹² and the sequence is well established in past orders on the conduct of proceedings, including, for example, in *Yekatom and Ngaïssona*, *Gicheru*, *Gbagbo and Blé Goudé*, *Bemba*, and *Katanga and Ngudjolo Chui*.¹³ The Parties and the CLRV therefore propose that the following language replace the text of paragraph 43 of the *Duterte* Directions and be adopted by the Chamber:

¹¹ *Abd-Al-Rahman* Directions on the conduct of proceedings, 4 October 2021, [ICC-02/25/01/20-478](#), para. 32.

¹² See for example *Al Hassan* Transcript of hearing on 10 May 2022, [ICC-01/12-01/18-T-173-ENG](#), pp. 4, lines 5–9, 60, lines 22–23.

¹³ *Yekatom and Ngaïssona* Further Directions on the Conduct of the Proceedings (Presentation of Evidence by the CLRV and the Defence), [ICC-01/14-01/18-1892](#), 29 May 2023, para. 27; *Gicheru*

“During the Prosecution case, the Prosecution will conduct its questioning of the witness first, followed by the questioning of the CLRVs, if any, and thereafter questioning by the Defence. During the Defence case, the Defence will conduct its questioning first, followed by the questioning by the Prosecution, and thereafter questioning by the CLRVs, if any.”

19. With respect to the Court’s practice noted in paragraph 44 of the *Duterte* Directions, the Prosecution submits that when the non-calling party indicates, in advance of the appearance of witnesses, which part of the witness’s anticipated evidence, if any, is uncontested, the non-calling party should do so within 10 working days before the expected appearance of each witness projected to present the evidence in question. The non-calling party would have all the materials required to make its determination as to whether it is contesting the anticipated evidence well in advance of the 10 days, and including such a deadline would help ensure the efficiency of the trial by allowing the Parties to direct their questioning toward matters at issue. The Prosecution therefore suggests that the following language should replace the text of paragraph 44 of the *Duterte* Directions and be adopted by this Chamber:

“Within 10 working days before the expected appearance of each witness, the non-calling party is expected to indicate which part of the witness’s anticipated evidence, if any, is not contested.”

The Defence opposes not only the Prosecution’s proposal in respect of paragraph 44 of the *Duterte* Directions but the whole of this paragraph. It will provide its separate submissions on the matter. The CLRV do not oppose the proposal.

20. With respect to paragraph 50 of the *Duterte* Directions, the Parties and the CLRV seek to have clarified that any re-examination of a witness by the calling party following questioning by the non-calling party shall be limited to issues arising from the examination by the *non-calling* party or the participant(s). The Parties and the CLRV therefore propose that the following language replace the text of paragraph 50 of the *Duterte* Directions and be adopted by this Chamber as such:

“The calling party may re-examine the witness after questioning by the non-calling party has concluded provided that the questions are limited to issues which arose from the examination by the non-calling party or the participant(s).”

Directions on the Conduct of the Proceedings, [ICC-01/09-01/20-189](#), 7 October 2021, para. 20; *Gbagbo and Blé Goudé* Directions on the conduct of the proceedings, [ICC-02/11-01/15-205](#), 3 September 2015, para. 29; *Bemba* Decision on Directions for the Conduct of the Proceedings, [ICC-01/05-01/08-1023](#), 19 November 2010, paras. 8-11; *Bemba* Transcript of hearing on 12 June 2013, [ICC-01/05-01/08-T-321](#), pp. 3, line 24–p. 4, line 4; *Katanga and Ngudjolo Chui* Directions for the conduct of the proceedings and testimony in accordance with rule 140, [ICC-01/04-01/07-1665-Corr](#), 1 December 2009, paras. 33-37.

ii. *Use of materials during the questioning*

21. While the Defence will provide its separate submissions on the timing of the non-calling party's provision of material for use in questioning, the Parties and the CLRV agree that objections, by the non-calling party, to the use of any material used for questioning should be raised orally *or via email*. Permitting objections by email will help ensure the efficiency of proceedings and should therefore be noted in the text of paragraph 56 of the Directions on the Conduct of Proceedings and be adopted by this Chamber as such, subject to any other changes the Chamber sees fit.

iii. *Expert witnesses*

22. With respect to the deadline for the Prosecution to file its final list of witnesses it intends to call, the Parties and the CLRV seek to clarify that in accordance with the Chamber's Decision Setting the Commencement Date of the Trial, the Prosecution shall provide a final confirmation of the expert witnesses that it intends to call in its List of Witnesses by 4 February 2027.¹⁴ This is without prejudice to the Prosecution's obligation to file the Provisional List of Prosecution Witnesses, including expert witnesses, by 18 December 2026.

5. Witness preparation and familiarisation

23. The Parties and the CLRV submit that the Chamber should adopt the Protocol on the practices to be used to familiarise witnesses for giving testimony at trial (the "Familiarisation Protocol")¹⁵ and the Witness Preparation Protocol¹⁶ used in *Abd-Al-Rahman* and recently adopted by Trial Chamber III in *Duterte*.¹⁷

24. These protocols would be highly useful in the present case. The Witness Familiarisation Protocol would allow witnesses to become acquainted with the courtroom environment and process of providing evidence before testifying, thereby reducing avoidable anxiety and facilitating the orderly and efficient presentation of evidence. The Prosecution and the CLRV contend that this is particularly helpful for the present case, as anticipated witnesses may be in

¹⁴ Decision Setting the Commencement Date of the Trial, para. 12.

¹⁵ Registry, *Abd-Al-Rahman* Annex I to "Registry's Submission of the Protocol on the practices to be used to familiarise witnesses for giving testimony at trial and of the Protocol on the vulnerability assessment and support procedure used to facilitate the testimony of vulnerable witnesses", [ICC-02/05-01/20-688-AnxI](#), 9 May 2022.

¹⁶ *Abd-Al-Rahman* Annex A to "Directions on the conduct of proceedings", [ICC-02/05-01/20-478-AnxA](#), 4 October 2021.

¹⁷ *Duterte* Directions, para. 86; see also *Duterte* Transcript of 27 May 2026, [ICC-01/21-01/25-T-009](#), p. 45, lines 14-16; *Duterte* Registry Submission of the Witness Preparation, Familiarisation, Vulnerability, Dual Status Witness and Redactions Protocols, [ICC-01/21-01/25-464](#), 15 June 2026.

a highly vulnerable state of mind when testifying.¹⁸ For these reasons, among others, familiarisation protocols have been consistently adopted by chambers of this Court,¹⁹ and their adoption is accordingly suggested in the Chambers' Practice Manual.²⁰

25. The adoption of the Witness Preparation Protocol would likewise allow witnesses to be appropriately prepared for the process of giving evidence, thus ensuring a focused presentation of evidence, protecting vulnerable witnesses, and enhancing the efficiency and clarity of the questioning while maintaining fairness in the proceedings. In *Al Hassan*, Trial Chamber X expressly recognised that witness preparation could assist witnesses in providing evidence where, among other circumstances, many witnesses were testifying for the first time, came from different backgrounds, and were required to address sensitive or traumatic matters experienced over prolonged periods of time.²¹ The circumstances of the present case similarly support a structured witness preparation protocol. The Protocol would simultaneously maintain safeguards against improper coaching or interference with testimony from the Parties. For these reasons, witness preparation protocols are also frequently employed by chambers of this Court, including in *Duterte*.²² The Chambers in *Said* and *Abd-Al-Rahman* also adopted witness preparation protocols as part of their respective directions on the conduct of proceedings.²³

26. The Parties and the CLRV therefore respectfully request that the Chamber adopt the proposed protocols, subject to any case-specific modifications it considers appropriate.

6. Transcripts

27. The Parties and the CLRV jointly propose three deviations in respect of the deadlines for the procedure regarding the production of public redaction versions of transcripts as laid out in paragraph 77 of the *Duterte* Directions. First, once the Registry has transmitted the corrected

¹⁸ See *Al Hassan*, Decision on witness preparation and familiarisation, [ICC-01/12-01/18-666](#), 17 March 2020, para. 13.

¹⁹ See for example *Said* Decision on Disclosure Disputes, [ICC-01/14-01/21-925](#), 25 February 2025, para. 2; *Duterte* Directions, para. 86; *Al Hassan* Decision on witness preparation and familiarisation, [ICC-01/12-01/18-666](#), 17 March 2020; *Gbagbo and Blé Goudé* Decision on witness preparation and familiarisation, [ICC-02/11-01/15-355](#), 2 December 2015; *Ntaganda* Decision on the protocol on witness familiarisation, [ICC-01/04-02/06-656](#), 17 June 2015; *Ruto and Sang* Decision on witness preparation, [ICC-01/09-01/11-524](#), 2 January 2013, para. 52.

²⁰ Chambers' Practice Manual, para. 79.

²¹ *Al Hassan* Decision on witness preparation and familiarisation, [ICC-01/12-01/18-666](#), 17 March 2020, paras. 11-15.

²² *Duterte* Directions, para. 86; see also *Al Hassan* Decision on witness preparation and familiarisation, [ICC-01/12-01/18-666](#), 17 March 2020; *Ntaganda* Decision on witness preparation, [ICC-01/04-02/06-652](#), 16 June 2015; *Ruto and Sang* Decision on witness preparation, [ICC-01/09-01/11-524](#), 2 January 2013.

²³ *Said*, Directions on the Conduct of Proceedings, [ICC-01/14-01/21-251](#), 9 March 2022, para. 44; *Abd-Al-Rahman*, Directions on the conduct of proceedings, [ICC-02/05-01/20-478](#), 4 October 2021, para. 54.

and highlighted transcripts, the calling party or participant should review the marked redactions and propose any lesser redacted versions or, exceptionally, discrete requests for additional redactions, within *30 days* of transmission by the Registry, instead of 21 days. Second, after receiving the proposed lesser-redacted version of additional redactions, the other party or participants should have *21 working days*, instead of 10 days, to raise any objections. It would follow that if, within those 21 working days, no agreement is reached among the parties and participants, the party proposing the contested redaction(s) or lifting of court-ordered redactions shall seize the Chamber for its authorisation. Finally, the procedure for seizing the Chamber for its authorisation should be altered to provide that the opposing party or participant may reply within *three* working days, instead of two, should they deem it necessary. The Parties and the CLRV submit that shorter deadlines with respect to this issue may contribute to overburdening the Parties and Participants in the course of proceedings. This consideration is particularly pertinent in the present case given the need to undertake careful and, where necessary, case-specific assessments of the potential risks that the disclosure of identifying or otherwise sensitive information may pose to witnesses, victims, and other persons connected to the proceedings. The review of proposed redactions may therefore require additional time to ensure that the protection of affected persons is appropriately balanced against the principle of public proceedings. These slightly extended deadlines in the procedure for producing public redacted versions of transcripts are therefore necessary given the amount of work anticipated for the limited resources available to the Parties and Participants. The proposed deadlines are limited and will serve to ensure proper time-management during trial for the Parties and Participants. Paragraph 77 of the *Duterte* Directions should accordingly be amended with these proposed deadlines and adopted as such by the Chamber.

7. Email decisions

28. With respect to the application of redactions to email submissions and decisions, namely as provided in paragraph 85 of the *Duterte* Directions, the Parties and the CLRV agree that the names and contact information of members of the Parties and Participants should also be redacted. Given the imposition of sanctions and threats to the Court, these redactions are necessary to protect the safety and privacy of individuals working in association with, or in relation to, the Court. The Parties and the CLRV therefore suggest that the following language should replace the text of paragraph 85 of the *Duterte* Directions and be adopted as such by the Chamber:

“Parties and participants are also instructed to frame their email submissions in a way that makes their publication possible. In exceptional circumstances, when emails cannot be made public at all, the sender shall indicate this clearly in the subject line of the email. *Further, the Registry is instructed to apply the following redactions: i) names of Chambers staff members, where applicable; ii) names of Registry staff members, if deemed necessary by the Registry; iii) any email address or other private or personal information; and iv) names of members of the parties and participants, where applicable.* The Registry shall consult the parties and participants on the redactions applied. In case of disagreement, the Chamber will rule.”

8. Separation of sentencing decision and Article 74 judgment

29. The Parties submit that based on the case-specific considerations of these proceedings and established Court practice, the Chamber should separate its Article 76 sentencing decision from its Article 74 trial judgment, in the event of a conviction. While Article 76 permits the Chamber to pronounce sentence together with its Article 74 judgment and to hold a further hearing on sentencing,²⁴ the Parties contend that separate determinations give effect to the distinct nature of the sentencing process by allowing the Parties and Participants to make focused, meaningful, and non-speculative submissions on the most relevant issues that should be considered in determining the appropriate sentence. A separate sentencing decision would allow the Parties and Participants to determine whether they seek to call any witnesses and/or submit further documentary evidence, subject to limitations, for sentencing purposes only. Without knowing the Chamber’s actual findings on the merits, considerations and submissions for sentencing may be unnecessary or uninformed, in turn impeding the fair and expeditious conduct of proceedings. In *Bemba*, Trial Chamber III explicitly accepted this line of reasoning in confirming the separation of its Article 74 and Article 76 determinations.²⁵

30. The Parties further contend that separation does not necessarily undermine expeditiousness of the proceedings or the rights of the Accused. In *Bemba*, Trial Chamber III expressly considered expeditiousness and equality-of-arms concerns but concluded that these could be addressed through the sentencing procedure and strict timelines.²⁶ Trial Chamber VI’s

²⁴ See *Ongwen* Decision on Defence request for leave to appeal the ‘Decision scheduling a hearing on sentence and setting the related procedural calendar’, [ICC-02/04-01/15-1777](#), 22 February 2021, para. 9.

²⁵ *Bemba* Decision on the timetable and on the sentencing procedure, [ICC-01/05-01/08-3071](#), 26 May 2014, paras. 13-15.

²⁶ *Bemba* Decision on the timetable and on the sentencing procedure, [ICC-01/05-01/08-3071](#), 26 May 2014, paras. 13-15.

recent Decision on the Sentencing Procedure, issued on the same day of its conviction of Mr Mahamat Said Abdel Kani, reflects this efficient management of procedure and timelines.²⁷

31. The Parties highlight that the Court has accordingly separated its sentencing and conviction decisions in nearly all its cases.²⁸ In *Yekatom and Ngaïssona*, the Court's reasoning for issuing its Article 76 sentencing decision simultaneously with its Article 74 judgment was because the mandates of Trial Chamber V's judges had ended, and a separate sentencing decision would have been made by a differently composed Chamber.²⁹ This is unlikely to be the situation faced by the Chamber in these proceedings, and even if it were, the Presidency's decision replacing judges in *Al Hassan* confirmed that Article 76 does not require the chamber deciding sentence to have exactly the same composition as the chamber that rendered the Article 74 judgment.³⁰ The Presidency further emphasized the separate and distinct nature of the Article 76 sentencing judgment from the Article 74 judgment, which were also issued separately in *Al Hassan*.³¹

32. In light of the above, the Parties respectfully submit that the Chamber's Article 74 judgment be issued separately from its decision on sentencing pursuant to Article 76.

33. The CLRV take a different position. They disagree that it is necessary at this stage to provide for the separation of the judgment under article 74 of the Statute from any decision on sentence under article 76. As recognised by the Parties, the Appeals Chamber has confirmed that article 76(2) permits both a bifurcated procedure and the possibility of sentence being pronounced together with the conviction decision.³² Although separate sentencing proceedings have been followed in previous cases, the statutory framework does not require that approach.

34. The CLRV acknowledge that the decision to render the article 74 and article 76 decisions simultaneously in *Yekatom and Ngaïssona* arose in particular circumstances concerning the

²⁷ *Said* Decision on the Sentencing Procedure, [ICC-01/14-01/21-1055](#), 23 September 2026.

²⁸ See for example *Said* Decision on the Sentencing Procedure, [ICC-01/14-01/21-1055](#), 23 September 2026; *Said* Trial Judgment, [ICC-01/14-01/21-1054](#), 23 September 2026; *Abd-Al-Rahman* Trial Judgment, [ICC-02/05-01/20-1240](#), 6 October 2025; *Abd-Al-Rahman* Sentencing Judgment, [ICC-02/05-01/20-1281](#), 9 December 2025.

²⁹ *Yekatom and Ngaïssona* Decision on the Sentencing Procedure and Amended Directions on the Conduct of the Proceedings, [ICC-01/14-01/18-2600](#), 18 July 2024, para. 2.

³⁰ *Al Hassan* Decision Replacing Judges in Trial Chamber X, [ICC-01/12-01/18-2596](#), 28 June 2024, para. 6.

³¹ *Al Hassan* Decision Replacing Judges in Trial Chamber X, [ICC-01/12-01/18-2596](#), 28 June 2024, para. 5; *Al Hassan*, Trial Judgment, [ICC-01/12-01/18-2594](#), 26 June 2024; *Al Hassan*, Sentencing Judgment, [ICC-01/12-01/18-2662](#), 20 November 2024.

³² *Ongwen* Judgment on the appeal of Mr Dominic Ongwen against the decision of Trial Chamber IX of 6 May 2021 entitled "Sentence", [ICC-02/04-01/15-2023](#), 15 December 2022, para. 56.

future composition of the Chamber.³³ Nevertheless, that case demonstrates that simultaneous delivery can be accommodated while maintaining a distinct sentencing procedure. Trial Chamber V provided for the parties and participants to seek leave to present additional evidence relevant to sentence, to make written submissions on sentencing, and to participate in a hearing pursuant to article 76(2).³⁴ The Chamber subsequently rejected the argument that article 76(2) required such additional evidence and submissions to be presented only after the delivery of the article 74 judgment.³⁵

35. In these circumstances, the CLRV considers that the detailed modalities of any eventual sentencing procedure can be left to a later stage. If necessary, the Chamber may establish an appropriate timetable for additional evidence and submissions on sentence in light of the circumstances at that time, while ensuring that victims have a meaningful opportunity to address matters relevant to sentence where their personal interests are affected. From a victims' perspective, the CLRV are also mindful of the importance of avoiding unnecessary procedural delay and of ensuring the expeditious conduct of the proceedings, as is consistent with the rights of the accused and the effective participation of victims. Leaving the precise modalities of sentencing to be determined at the appropriate stage would preserve this objective while allowing the Chamber to take into account the circumstances prevailing at that time, including the interests and concerns of victims. This would leave open the possibility of rendering the article 74 judgment and any article 76 decision simultaneously, without determining at this juncture the procedure that may ultimately be required in the event of a conviction.

D. CONCLUSION

36. The Parties and the CLRV respectfully request that the Chamber consider these submissions on the Directions on the Conduct of Proceedings in these proceedings.

³³ *Yekatom and Ngaïssona* Decision on the Sentencing Procedure and Amended Directions on the Conduct of the Proceedings, [ICC-01/14-01/18-2600](#), 18 July 2024, para. 2.

³⁴ *Ibid*, paras. 3-10.

³⁵ *Yekatom and Ngaïssona* Decision on the Yekatom Defence Request for Partial Reconsideration of the 'Decision on the Sentencing Procedure and Amended Directions on the Conduct of the Proceedings', [ICC-01/14-01/18-2645](#), 20 August 2024, paras. 13-16.



Mame Mandiaye Niang
Acting Prosecutor



Yasser Hassan
Counsel for Mr Khaled Mohamed Ali El Hishri



Sarah Pellet
**Counsel for the Office of the Public Counsel
for Victims**



Paolina Massidda
**Counsel for the Office of the Public Counsel
for Victims**

Dated this 30th day of September, 2026
At The Hague, The Netherlands