

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/11-01/25
Date: 19 October 2026

TRIAL CHAMBER VII

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

SITUATION IN LIBYA

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

PUBLIC

**Registry observations pursuant to the Chamber's email order of 9 October 2026,
"Instructions Regarding Defence Request 203"**

Source: Registry

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

I. Introduction

1. The Registry submits these observations further to the Chamber's email order to this effect. The Chamber, noting the Defence filing "Defence request for authorisation for Lead Counsel to use Arabic at trial"¹ ("Request"), has instructed the Registry to provide observations by 19 October 2026² ("Order").²

II. Procedural History

2. On 31 August 2026, Trial Chamber VII's set the agenda for the First Status Conference and instructed "[a]ny request regarding the use of language other than the working languages of the Court" to made via official filings.³
3. On 8 October 2026, the Defence submitted its "[R]equest for authorisation for Lead Counsel to use Arabic at trial".⁴
4. On 9 October 2026, the Single Judge instructed the Registry to provide observations on the Request by Monday 19 October 2026.⁵

III. Applicable Law

5. The following provisions are of particular relevance to the present submission: article 50 of the Rome Statute ("Statute") and rule 41 of the Rules of Procedure and Evidence ("RPE").

¹ Defence, "Defence request for authorisation for Lead Counsel to use Arabic at trial", 8 October 2026, ICC-01/11-01/25-203.

² Email from the Chamber to the Registry on 9 October 2026 at 15:55 CEST.

³ ICC-01/11-01/25-176, para. 3(d).

⁴ Defence, "Defence request for authorisation for Lead Counsel to use Arabic at trial", 8 October 2026, ICC-01/11-01/25-203.

⁵ Email from the Chamber to the Registry on 9 October 2026 at 15:55 CEST.

IV. Submissions

(i) *The threshold for authorising the use of a non-working language*

6. The Registry notes that article 50(3) of the Rome Statute permits “a language other than English or French” to be used by a party when the Court considers such authorisation “adequately justified”.⁶ The provision thus requires an assessment of the circumstances advanced in support of the request and whether they provide sufficient justification for departing from the Court’s working languages. In this regard, the Registry refers to the recent observations made by the Presiding Judge during a Status Conference in the *Duterte* case, held on 13 October 2026. While recalling that English and French are the working languages of the Court, the Presiding Judge emphasised that “it has to be a really exceptional circumstance for permission to be given to be using one – a different language even if it's one of the Court languages.”⁷
7. The Registry further notes that, in the present case, the Chamber informed the Defence that “specific circumstances may exceptionally justify the use of non-working language by a counsel during discrete portions of the trial.”⁸
8. The Registry also takes note of the jurisprudence of the Court addressing requests under article 50(3) of the Statute, in particular in the *Al Mahdi* and *Duterte* cases, which should be considered in determining the applicable parameters for the exercise of discretion under article 50(3) of the Statute.
9. Against this background, it is the Registry’s understanding that the threshold under article 50(3) requires sufficiently substantiated justification for the proposed departure from the Court’s working languages. The scope and duration of the requested authorisation are also relevant considerations

⁶ Rome Statute, art. 50(3).

⁷ ICC-01/21-01/25-T-012-CONF-ENG ET, p. 40 lines 24-25 ; and, p. 41, lines 1-2.

⁸ Email order from Trial Chamber VII, “[ICC-01/11-01/25 - Public] Re: Request for leave to use Arabic during forthcoming status conference”, 25 August 2026 at 17:23.

in assessing its implications. In the present case, the Request seeks authorisation for Lead Counsel to “use Arabic in the examination of Arabic-speaking witnesses and in certain oral pleadings during the trial”⁹, which may amount to a significant portion of the Defence’s oral advocacy rather than discrete portions of the proceedings. The Registry further notes that the use of the Court’s working languages, accompanied by interpretation and translation as required,, does not in itself, prejudice the rights of the accused, provided that the applicable fair-trial guarantees, including those under article 67(1)(a) and (f) of the Statute are fully respected. The question of whether the circumstances advanced in the Request satisfy the threshold under article 50(3) remains for the Chamber to determine in light of the applicable legal framework and the circumstances of the case.

(ii) *Technical and operational implications*

10. The Registry’s Language Services Section (“LSS”) has the technical capacity to accommodate the use of Arabic for oral advocacy in the manner described in the Request. However, the arrangement would have operational implications for the allocation of the LSS’s Arabic-language resources beyond the hearings themselves. In particular, the implementation of the Request would require all available in-house Arabic-language professionals to be allocated exclusively to live interpretation during the hearings.
11. The duties of the Court’s interpreters and translators extend beyond interpretation during hearings. They also include the verification and correction of transcripts for delivery to the parties and participants within prescribed deadlines after the date of the relevant hearing, and the translation of judicial documents, often within strict notification deadlines, as well as participation in high-level missions and other interpretation

⁹ Defence, “Defence request for authorisation for Lead Counsel to use Arabic at trial”, 8 October 2026, ICC-01/11-01/25-203.

assignments related to the Court's proceedings (for, instance, witness familiarization assignments prior to their testimony in Court). Allocating all available in-house Arabic-language professionals exclusively to live interpretation would therefore reduce the LSS's capacity to fulfil these other responsibilities.

12. Depending on the duration and scheduling of the hearings and the competing demands on the LSS, additional freelance translators or interpreters might consequently need to be recruited to maintain the delivery of other language services. Moreover, in the event that an in-house Arabic-language professional became unavailable, the LSS would have limited capacity to maintain the required interpretation services without recourse to freelance interpreters. These considerations would need to be managed within the resources available to the Registry.
13. Accordingly, while the requested arrangement is technically feasible, its implementation would require the prioritisation of live interpretation over certain other Arabic-language functions and could entail additional costs. These operational considerations are distinct from the legal question of whether the Request meets the requirements of article 50(3) of the Statute.

(iii) *Practical implications and considerations for future proceedings*

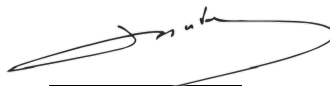
14. The Registry recognises the importance of enabling victims and affected communities to follow proceedings in a language they understand. The use of Arabic by Lead Counsel may offer a more direct linguistic connection for Arabic-speaking participants and observers. At the same time, the Registry notes that the existing arrangements for interpretation and translation enable Arabic-speaking victims and affected persons to follow the proceedings in Arabic, through live interpretation in the courtroom and the translation of relevant documents.

15. The Registry's observations in this regard are not intended to diminish the potential value of oral advocacy in Arabic. Rather, they identify the existing language-access arrangements through which the Court seeks to ensure that participants and affected communities can follow the proceedings in a language they understand. The extent to which the proposed arrangement would provide additional benefits, and the weight to be accorded to those benefits in the circumstances of this case, are matters for the Chamber's consideration.
16. The Registry further notes that authorising the use of Arabic for oral advocacy in the present case could have implications beyond these proceedings. Such a decision might be relied upon in support of similar requests in future cases, including requests involving languages for which the Registry may not have comparable interpretation and translation resources readily available.
17. Although the Registry currently has in-house resources for Arabic interpretation and translation, the availability of such resources in the present case should not be understood as indicating that equivalent resources would necessarily be for other languages or in other proceedings. Depending on the language concerned and the operational requirements of the case, similar arrangements could require additional recruitment, training and expenditure. The extent of any such implications would depend on the circumstances of each case and the resources available to the Registry at the relevant time.
18. The Registry also notes the potential implications for the expectations of victims and affected communities in future proceedings. While language accessibility is an important consideration, the Registry's ability to provide particular linguistic arrangements depends on the availability of qualified personnel and the operational and budgetary resources at its disposal.
19. Authorisation of the Request could give rise to expectations that comparable arrangements would be available in proceedings concerning other affected

communities. Where such arrangements could not be provided, this might give rise to perceptions of unequal treatment, notwithstanding differences in the resources and circumstances of the cases concerned. These considerations do not, in themselves, determine whether the Request should be granted. They are submitted to assist the Chamber in assessing the broader operational implications of the proposed arrangement, including the extent to which it may be feasible to accommodate comparable requests in future proceedings.

V. Conclusion

20. The Registry respectfully submits these observations for the Chamber's consideration. The Registry confirms that the requested use of Arabic for oral advocacy is technically feasible, while noting that its implementation would have implications for the allocation of in-house Arabic-language resources, the provision of other language services, and potentially the Registry's operational and budgetary requirements.
21. The Registry leaves the determination of the Request to the Chamber. Should the Chamber authorise the proposed arrangement, the Registry will endeavour to implement the decision in accordance with its terms and within the limits of its available resources and operational capacity.



Marc Dubuisson, Director, Division of Judicial Services
on behalf of
Osvaldo Zavala Giler, Registrar

Dated this 19 October 2026

At The Hague, Netherlands