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**International
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Court**

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No.: ICC-01/11-01/25
Date: 26 February 2026

PRE-TRIAL CHAMBER I

Before: Judge Iulia Antoanella Motoc, Presiding Judge
Judge María del Socorro Flores Liera
Judge Reine Adélaïde Sophie Alapini-Gansou

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

Public

**With confidential *ex parte* only available to the Prosecution and Victims and
Witnesses Unit Annexes 1-4**

**Public Redacted Version of “Prosecution’s request for authorisation to withhold
the identity of witnesses P-0342, P-0497, P-0670, P-0719, P-0925, P-0943, and P-1031
upon whose evidence the Prosecution will rely at the confirmation hearing” 28
January 2026, ICC-01/11-01/25-55-Conf**

Source: Office of the Prosecutor

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A. INTRODUCTION

1. On 3 December 2025, during the initial appearance of Mr Khaled Mohamed Ali EL HISHRI (“Mr EL HISHRI”), Pre-Trial Chamber I (“the Chamber”), ordered the Office of the Prosecutor (“Prosecution”) to disclose, by 11 December 2025, all information or materials upon which the Warrant of Arrest for Mr Khaled Mohamed Ali El Hishri¹ was issued (“the Arrest Warrant materials”).² On 9 December 2025, the Prosecution filed an application pursuant to regulation 35 of the Regulations of the Court (“RoC”) to extend the disclosure deadline for the Arrest Warrant materials of 32 witnesses (“Regulation 35 Application”) to *inter alia* enable it to complete its assessment in relation to 17 witnesses and file, by 26 January 2026, any necessary non-disclosure requests.³ [REDACTED] and set the time limit for the filing of non-disclosure requests for Arrest Warrant materials to no later than 26 January 2026 and encouraged the Prosecution to file these applications at the earliest opportunity and on a rolling basis.⁴

2. Further to the instructions of the Chamber, the Prosecution requests the Chamber to authorise the non-disclosure of the identity of seven Prosecution witnesses LBY-OTP-P-0342 (“P-0342”), LBY-OTP-P-0497 (“P-0497”), LBY-OTP-P-0670 (“P-0670”), LBY-OTP-P-0719 (“P-0719”), LBY-OTP-P-0925 (“P-0925”), LBY-OTP-P-0943 (“P-0943”), and LBY-OTP-P-1031 (“P-1031”) (the “seven Witnesses”). Specifically, the Prosecution requests authorisation to disclose to the Defence anonymous redacted versions of the statements of witnesses P-0497, P-0670, P-0719, P-0925, P-0943, and P-1031 and associated witness materials, to redact the names of these witnesses in the metadata of these materials;⁵ and not to disclose certain annexes to their statements/associated witness materials,⁶ pursuant to article 68(1) of the Rome Statute (“Statute”), as well as rules 76(4), 81(2) and (4) of the Rules of Procedure and Evidence (“Rules”). In relation to witness P-0342, the Prosecution requests to disclose a summary of the

¹ ICC-01/11-188 (“Warrant of Arrest”).

² ICC-1-11-01-25-T-001-ENG, p. 8, ll 1-3 (“Chamber’s Order”).

³ ICC-01/11-01/25-35-Conf-Exp-Corr; a confidential redacted version has been filed on 11 December 2025, *see* ICC-01/11-01/25-35-Conf-Corr-Red.

⁴ ICC-01/11-01/25-46-Conf, para. 10 and p. 7.

⁵ *See* Annex 1. The materials listed in Annex 1 will be made available to the Chamber electronically with the proposed redactions in transparent form. The materials will simultaneously be disclosed to the Defence with the proposed redactions applied. In addition to the Arrest Warrant materials of the seven Witnesses, falling under the Chamber’s Order, the present request also includes materials related to these seven Witnesses that were not cited in the Arrest Warrant; translations for some of these materials are still pending and will be made available as soon as possible.

⁶ *See* Annex 2. The materials listed in Annex 2 will be made available to the Chamber electronically in unredacted form.

relevant parts of P-0342's statement,⁷ to withhold all identifying information pertaining to this witness and not to disclose his witness statements and annexes,⁸ pursuant to article 68(1), article 68(5) and article 61(5) of the Statute, as well as rule 81(2) and (4) of the Rules.

3. While the Prosecution intends to rely on the evidence of the seven Witnesses at the confirmation hearing, their identities and cooperation cannot safely be disclosed at this stage: [REDACTED]. Non-disclosure of their identity and identifying information is necessary as no less intrusive measures short of non-disclosure are available and feasible in the circumstances. Furthermore, the proposed measures are proportionate and do not prejudice the Defence at this preliminary stage of the proceedings.

B. CONFIDENTIALITY

4. This request and its annexes 1-4 are filed as Confidential and *ex parte*, only available to the Prosecution and Victims and Witnesses Unit ("VWU") in accordance with regulation 23bis(2) of the Regulations of the Court ("RoC") because of their sensitive and confidential content. Such content includes, *inter alia*, references to filings marked with the same classification as well as information regarding the security situation of vulnerable witnesses and investigation reports detailing security incidents.

5. The Prosecution will file a confidential redacted version of the present request as soon as practicable.

C. SUBMISSIONS

6. Pursuant to article 68(1) of the Statute, the Chamber is obliged to ensure the safety, physical and psychological well-being of victims and witnesses. In fulfilling this obligation, the Chamber must take all appropriate measures to safeguard their privacy and protection, while ensuring that such measures remain consistent with the rights of the accused.⁹

7. The Court's appellate jurisprudence sets out several criteria relevant to substantiating a request for non-disclosure of witness identity:¹⁰

- a) there is an objectively justifiable risk to the safety of the person concerned which arises from disclosing the information to the Defence;

⁷ See LBY-OTP-02790777; LBY-OTP-02856214. The summary and its Arabic translation will be disclosed to the Defence simultaneously.

⁸ See Annex 2, items 1 and 2.

⁹ ICC-01/12-01/18-765-Red, para. 16.

¹⁰ ICC-01/04-01/07-475, paras. 71-73; ICC-01/04-01/06-773, paras. 33-34. See also e.g. ICC-01/12-01/18-765-Red, para. 19; ICC-01/14-01/18-273-Red, para. 26; ICC-01/12-01/18-777-Red, paras. 12-13.

- b) the non-disclosure of information could overcome or reduce the risk and it is necessary in that there is no less intrusive measure, short of non-disclosure, that is available and feasible in the circumstances; and
- c) the non-disclosure of information is proportionate, meaning that it is not prejudicial to or inconsistent with the rights of the suspect and a fair and impartial trial.

1. Overview of the seven Witnesses and their evidence

8. The Prosecution seeks authorisation for the non-disclosure of the identities of crime-base witnesses P-0497, P-0719, P-0925, P-0943, and P-1031 as well as witnesses P-0342 and P-0670, whose evidence is summarised as follows:

- a. P-0342 [REDACTED]. While he gives some contextual information relevant to the Mitiga airbase, Mitiga Prison and SDF/RADA,¹¹ [REDACTED] of limited to no relevance to the EL HISHRI case.
- b. P-0497 [REDACTED]. He was imprisoned and subjected to outrages upon personal dignity, cruel treatment, torture, and other inhumane acts. [REDACTED].¹²
- c. P-0670 [REDACTED], whose [REDACTED] were arrested [REDACTED]. [REDACTED] provides evidence corroborating aspects of the evidence of core crime-base witnesses. [REDACTED] provides overview evidence on SDF/RADA's arrest and detention practices, reinforcing the broader pattern of abuses. Moreover, P-0670 [REDACTED]. [REDACTED].¹³
- d. P-0719 [REDACTED], who was arrested [REDACTED]. While in detention, he was subjected to outrages upon personal dignity, cruel treatment, torture, and other inhumane acts, as well as enslavement. [REDACTED]. [REDACTED].¹⁴
- e. P-0925 [REDACTED], who was arrested [REDACTED]. In addition to being imprisoned and subjected to outrages upon personal dignity, cruel treatment, torture, and other inhumane acts, P-0925 is a victim of attempted murder.¹⁵
- f. P-0943 [REDACTED], who was arrested by SDF/RADA in [REDACTED]. [REDACTED] was detained in solitary confinement and tortured. In addition to being imprisoned and subjected to outrages upon personal dignity, cruel treatment, torture, and other inhumane acts, [REDACTED]. P-0943 [REDACTED].¹⁶

¹¹ See Annex 3, p. 1.

¹² See Annex 3, p. 4.

¹³ See Annex 3, p. 7.

¹⁴ See Annex 3, pp. 10-11.

¹⁵ See Annex 3, pp. 13-14.

¹⁶ See Annex 3, p. 17.

- g. P-1031 [REDACTED], who was arrested [REDACTED]. He was tortured during detention and incurred medical conditions as a result. [REDACTED]. P-1031 was subjected to outrages upon personal dignity, cruel treatment, torture, and other inhumane acts.¹⁷

2. There are objectively justifiable risks arising from the disclosure of the identities of the seven Witnesses

9. There are objectively justifiable risks to the safety of the seven Witnesses and their families arising from the disclosure of their identities to Mr EL HISHRI. The danger caused by the disclosure of the witnesses' identity to the Defence must be assessed with regard to each individual witness, taking into account his/her specific situation: (i) the witness's personal circumstances; (ii) whether there are currently protection or security measures in place for the witness; (iii) the relevant security situation in the area where the witness or his/her family currently reside; (iv) whether the witness or his/her family members have received any threats on account of his/her (perceived) involvement with the Court; (v) whether the witness him/herself has undertaken any activity to endanger his/her personal safety; and (vi) whether the witness consented that his/her identity be disclosed to the Defence (without prejudice to the Chamber's *proprio motu* assessment whether to disclose such identity).¹⁸

(a) The seven Witnesses [REDACTED] face an objectively justifiable risk of physical harm and intimidation

10. There is an objectively justifiable risk to the safety of the seven Witnesses and their families arising from the disclosure of their identities to Mr EL HISHRI because (1) [REDACTED]; (2) Mr EL HISHRI, his associates and SDF/RADA have the capacity and motivation to interfere with and intimidate witnesses, [REDACTED], as well as a history of doing so; (3) any identities disclosed to Mr EL HISHRI are at risk of becoming known to SDF/RADA; (4) [REDACTED]; and (6) SDF/RADA has an established practice of detaining or victimising family members to coerce or punish individuals.

11. First [REDACTED] due to SDF/RADA's significant capabilities and its demonstrated motivation to intimidate or otherwise interfere with Prosecution witnesses, as further detailed below. P-0342 and P-0719 [REDACTED].¹⁹ P-0719 [REDACTED].²⁰ P-0670

¹⁷ See Annex 3, p. 20.

¹⁸ See e.g. ICC-01/14-01/18-273-Red, para. 27; ICC-01/12-01/15-61, para. 6; ICC-01/05-01/08-215-Red, para. 51; ICC-01/05-01/08-202, para. 10; ICC-01/05-01/08-85, para. 30.

¹⁹ See Annex 3, pp. 1-2, 10, 12 and fn. 1.

²⁰ See Annex 3, p. 10.

[REDACTED].²¹ P-0497, P-0925, P-0943 and P-1031 [REDACTED].²² P-0925 [REDACTED].²³ In addition, P-0497, P-0670, P-0719, P-0925, P-0943 and P-1031 [REDACTED],²⁴ [REDACTED]. Moreover, P-0719, P-0925, P-0943 [REDACTED].²⁵ Moreover, [REDACTED] P-0670, P-0719, P-0925 and P-1031 [REDACTED].²⁶ In these circumstances, the seven Witnesses have been assessed by the Prosecution's Security and Protection Unit ("SPU") to face a [REDACTED] risk of physical harm and intimidation, should their identities become known to SDF/RADA.²⁷

12. Second, as set out in detail in the Prosecution's Regulation 35 Application, Mr EL HISHRI, his associates and SDF/RADA have both the capacity to interfere with and intimidate witnesses, [REDACTED],²⁸ [REDACTED].²⁹ In addition, both SDF/RADA and its senior members—in particular Mr EL HISHRI [REDACTED] —are motivated to intimidate or otherwise interfere with Prosecution witnesses in this case [REDACTED],³⁰ [REDACTED].³¹ [REDACTED].³² [REDACTED].

13. [REDACTED] information received by the Prosecution further underscores this risk. [REDACTED]. [REDACTED].³³ [REDACTED].

14. Third, as previously argued, even if the Chamber [REDACTED],³⁴ and even though the Chamber has indicated that it would be appropriate to adopt the *Protocol on the Handling of Confidential Information During Investigations and Contact Between a Party or Participant and Witnesses of the Opposing Party or of a Participant*,³⁵ there remains at least a risk that if the identities of Prosecution witnesses are disclosed to Mr EL HISHRI, they would become known to SDF/RADA. This risk is amplified by his retained authority over SDF/RADA and

²¹ See Annex 3, p. 8.

²² See Annex 3, pp. 4-5, 13, 15, 17-18, 20, 22 and fn. 1.

²³ See Annex 3, pp. 13, 15.

²⁴ See Annex 3, pp. 4-5, 7, 9-15, 17-18, 20-22.

²⁵ See Annex 3, pp. 10, 12, 13, 15, 17-18.

²⁶ See Annex 3, pp. 7-8, 11, 14, 21.

²⁷ See Annex 3, pp. 2, 5, 8-9, 12, 15, 18, 22.

²⁸ Regulation 35 Application, paras. 15-20. See also ICC-01/11-01/25-24-Conf, para. 7.

²⁹ Regulation 35 Application, paras. 22-24.

³⁰ Regulation 35 Application, paras. 25-27.

³¹ Regulation 35 Application, para. 27.

³² Regulation 35 Application, para. 27.

³³ Annex 4, pp. 1-2.

³⁴ See ICC-01/11-01/25-54-Conf-Anx9. See also ICC-01/11-01/25-16-Conf-Red, paras. 27-28; ICC-01/11-01/25-54-Conf-Anx16.

³⁵ See ICC-1-11-01-25-T-001-ENG, p. 8, ll 13-16; Chambers Practice Manual, Annex, Protocol on the Handling of Confidential Information During Investigations and Contact Between a Party or Participant and Witnesses of the Opposing Party or of a Participant ("Confidential Information and Witness Contact Protocol").

his close family ties to the group.³⁶ Even [REDACTED], Mr EL HISHRI maintains contact with [REDACTED] who are themselves directly involved with SDF/RADA. Any information shared [REDACTED], whether deliberately or inadvertently, can easily reach individuals embedded in SDF/RADA who would be a position, and are likely motivated, to act upon it.

15. That this risk is not hypothetical is demonstrated [REDACTED]. [REDACTED].³⁷ [REDACTED].³⁸ [REDACTED]. [REDACTED]. [REDACTED].³⁹ [REDACTED].⁴⁰

16. Fourth, [REDACTED]:

- a. [REDACTED], P-0719, P-0925 and P-0670's [REDACTED].⁴¹ [REDACTED] P-0719 [REDACTED].⁴² While P-0925 [REDACTED]—both P-0719 and P-0670 [REDACTED].⁴³ [REDACTED].⁴⁴
- b. P-0497 [REDACTED].⁴⁵
- c. P-0670 [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].⁴⁶
- d. P-0719 reported [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].⁴⁷
- e. P-0925 [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].⁴⁸
- f. P-0943 [REDACTED].⁴⁹

17. [REDACTED].

18. Finally, the risk of physical harm and intimidation [REDACTED].⁵⁰ [REDACTED],⁵¹ [REDACTED].⁵² [REDACTED],⁵³ [REDACTED].

³⁶ Regulation 35 Application, paras. 17-19

³⁷ Regulation 35 Application, para. 14.

³⁸ Regulation 35 Application, para. 19.

³⁹ Regulation 35 Application, para. 27(i).

⁴⁰ [REDACTED]. *See also* ICC-01/11-172-Conf-Red-Corr, para. 110.

⁴¹ *See* Annex 3, pp. 7-8, 11, 14.

⁴² *See* Annex 3, p. 11.

⁴³ *See* Annex 3, pp. 8, 11, 14.

⁴⁴ *See* Annex 3, p. 8.

⁴⁵ *See* Annex 3, p. 4.

⁴⁶ *See* Annex 3, p. 7.

⁴⁷ *See* Annex 3, p. 11.

⁴⁸ *See* Annex 3, p. 14.

⁴⁹ *See* Annex 3, p. 17.

⁵⁰ Regulation 35 Application, para. 20.

⁵¹ [REDACTED].

⁵² Regulation 35 Application, para. 20.

⁵³ *See* above at para. 16(a), (c), (d) and (e).

19. In these circumstances, disclosure of the Witnesses' identities could expose them and their relatives to immediate and serious risks of physical harm and intimidation.

(b) P-0497, P-0670, P-0719, P-0925, P-0943 and P-1031, additionally, face objectively justifiable psychosocial risks

20. In addition to the serious risks of physical harm and intimidation, six of the seven Witnesses also face an objectively justifiable risk of psychological harm should their identities be disclosed to the Defence. Their psychological vulnerability is rooted in the severity of the crimes they endured at Mitiga Prison—torture, cruel treatment, sexual violence, enslavement, and other inhumane acts—and is compounded by [REDACTED]. These factors, taken together, establish that disclosure at this stage [REDACTED] would place them at a foreseeable, serious, and unacceptable risk to their psychological well-being.

21. P-0719, P-0925, P-0943 and P-1031 face [REDACTED] risks to their psychosocial well-being, which would likely increase upon disclosure. All four were subjected to extremely serious abuse during detention, including outrages on personal dignity, torture, cruel treatment, other inhumane acts and, in the case of P-0719, enslavement by SDF/RADA.⁵⁴ P-0943 [REDACTED]. [REDACTED].⁵⁵ [REDACTED].⁵⁶ P-0719, P-0943 and P-1031 [REDACTED].⁵⁷ [REDACTED]. [REDACTED] and disclosure to Mr EL HISHRI would likely further elevate this risk, in particular, [REDACTED].⁵⁸

22. P-0497 and P-0670 [REDACTED], which would likely increase upon disclosure.⁵⁹ P-0497 was subjected to outrages on personal dignity, torture, cruel treatment, other inhumane acts, [REDACTED]. While P-0497 [REDACTED].⁶⁰ P-0670 experienced indirect victimisation [REDACTED]. [REDACTED].⁶¹ [REDACTED]. [REDACTED].⁶²

23. SDF/RADA has previously used public exposure to stigmatise and harm individuals, increasing the risk that disclosure would be weaponised against these witnesses. [REDACTED].

⁵⁴ Annex 3, pp. 12, 15-16, 19, 22.

⁵⁵ Annex 3, pp. 17-19.

⁵⁶ Annex 3, pp. 11-12, 15-16, 18-19, 22.

⁵⁷ Annex 3, pp. 11-12, 18-19, 21-22.

⁵⁸ Annex 3, pp. 12, 15-16, 19, 22-23.

⁵⁹ Annex 3, pp. 5-6, 9.

⁶⁰ Annex 3, pp. 5-6.

⁶¹ Annex 3, pp. 8-9.

⁶² Annex 3, pp. 5-6, 8-9.

[REDACTED].”⁶³ [REDACTED]. [REDACTED].⁶⁴ [REDACTED].⁶⁵ These examples demonstrate a readiness to disclose or amplify sensitive information when it serves to punish, intimidate, or discredit perceived opponents. It is therefore likely that SDF/RADA would disclose the identities of Prosecution witnesses to the wider community if it believes that it would subject them to stigma, social exclusion, or other negative consequences (such as accusations of immoral conduct, “treachery,” or “collaboration”). This would substantially heighten the [REDACTED], particularly those already vulnerable to stigma, such as survivors of sexual violence.

24. In light of the witnesses’ past abuse, current vulnerability, and SDF/RADA’s prior use of public exposure to stigmatise individuals, disclosure of the six witnesses’ identities would foreseeably and materially endanger their psychological well-being.

(c) The protection measures in place [REDACTED]

25. The protection measures currently available to the seven Witnesses and their families are [REDACTED]. As set out in the Regulation 35 Application,⁶⁶ [REDACTED]. [REDACTED]. [REDACTED].

26. Briefing the seven Witnesses on confidentiality offers no protection against risks arising from disclosure of their identities. While confidentiality briefings may reduce the chance of inadvertent disclosure by the witnesses themselves, they provide no safeguard at all against the risks described above—namely, the dangers arising from disclosure to Mr EL HISHRI and through him and his associates or family members to SDF/RADA. They do not diminish the risk of retaliation, intimidation, or coercive tactics by SDF/RADA.

27. [REDACTED]. [REDACTED]⁶⁷ [REDACTED]. [REDACTED]. [REDACTED].⁶⁸ [REDACTED]. [REDACTED].⁶⁹ [REDACTED].

28. [REDACTED],⁷⁰ [REDACTED].⁷¹ [REDACTED].⁷²

⁶³ LBY-OTP-0080-0784; LBY-OTP-0080-0786; LBY-OTP-0080-0788; LBY-OTP-0080-0790; LBY-OTP-0080-0792; LBY-OTP-0080-0794; LBY-OTP-0080-0794.

⁶⁴ LBY-OTP-0073-0025, paras. 105-111.

⁶⁵ See above at para. 15.

⁶⁶ Regulation 35 Application, para. 28.

⁶⁷ See Annex 3, pp. 2, 5, 8, 12, 15, 18, 22.

⁶⁸ See Annex 3, pp. 8, 12. See also above at paras. 11-12.

⁶⁹ See Annex 3, pp. 5, 8, 22.

⁷⁰ Annex 3, pp. 2, 5, 8, 12, 15, 18, 22.

⁷¹ Regulation 35 Application, para. 28.

⁷² Regulation 35 Application, para. 28.

29. [REDACTED]. P-0719 [REDACTED]P-0670 [REDACTED].⁷³ Moreover, P-0719 [REDACTED] P-0925 [REDACTED] P-0925 and P-1031 [REDACTED].⁷⁴ Finally P-0719, P-0925, P-0943, and P-1031 [REDACTED].⁷⁵ [REDACTED].

30. Finally, the seven Witnesses have taken deliberate steps to reduce their exposure and avoid drawing the attention of SDF/RADA. [REDACTED]. [REDACTED].⁷⁶ [REDACTED]. [REDACTED].⁷⁷

(d) The seven Witnesses either did not consent to their identity being disclosed or raised security concerns in relation to their identities being disclosed

31. [REDACTED].⁷⁸ [REDACTED].⁷⁹ [REDACTED].⁸⁰ [REDACTED]. [REDACTED].⁸¹

32. Other witnesses similarly articulated specific fears linked to the risk of disclosure. For instance, [REDACTED];⁸² [REDACTED].⁸³ These concerns must be assessed in the context of the broader pattern of interference and intimidation perpetrated by SDF/RADA, as described above.

33. Taken together, the absence of consent and the credible, well-founded security concerns underscore the seriousness of the risks they face. When viewed against the background of SDF/RADA's demonstrated capacity and motivation to target former detainees; their history of targeting former detainees, including through the use of extreme violence and killings; [REDACTED], it is clear that disclosure of their identities would expose the seven Witnesses to an objectively unacceptable level of risk.

3. Withholding the identities is necessary to reduce the risks and is the least intrusive measure available

34. In these circumstances, it is necessary to withhold the identities of the seven Witnesses from disclosure to Mr EL HISHSRI.

⁷³ See Annex 3, pp. 8, 11.

⁷⁴ See Annex 3, pp. 10-11, 13, 20.

⁷⁵ See Annex 3, pp. 11, 15, 18, 21.

⁷⁶ See Annex 3, p. 22.

⁷⁷ See Annex 3, p. 13.

⁷⁸ See Annex 3, pp. 5, 8, 11, 14-15, 21.

⁷⁹ See Annex 3, pp. 1, 17.

⁸⁰ See Annex 3, p. 17.

⁸¹ See Annex 3, p. 17.

⁸² See Annex 3, pp. 5-6.

⁸³ See Annex 3, pp. 14-15.

35. Non-disclosure of identity is necessary where no alternative measure short of anonymity can adequately safeguard the witnesses. [REDACTED].⁸⁴ Where the nature and immediacy of the risks triggered by disclosure are such that they cannot be addressed merely through confidentiality obligations, anonymity may be required. This may be the case in situations where security assessments indicate that the risks arising from any disclosure, even if inadvertent, would materialise immediately, leaving little or no opportunity to put in place adequate countermeasures.⁸⁵ Additionally, as the Appeals Chamber held, “further or ongoing investigations may be prejudiced if potential prosecution witnesses are interfered with in a manner that could lead to them being unable to cooperate with the Prosecutor.”⁸⁶

36. In the present case, non-disclosure of the identities of the seven Witnesses is necessary as [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED], non-disclosure is the only measure capable of safeguarding the seven Witnesses and their family.

37. [REDACTED], any inadvertent or illicit disclosure of the identities of Prosecution witnesses—in particular to SDF/RADA, could trigger immediate consequences, [REDACTED]. [REDACTED]. [REDACTED].⁸⁷ [REDACTED].

38. Finally, in light of the risks attached to disclosure of the identities of the seven Witnesses set out above, any incident affecting any of the seven Witnesses [REDACTED]. In these circumstances, the non-disclosure of the identities of the seven Witnesses is necessary to mitigate concrete, imminent, and [REDACTED] risks to their safety as well as to the integrity of the proceedings and is the least restrictive measure.

39. In order to effectively implement anonymity, it is necessary to redact the identifying information in the materials of witnesses P-0497, P-0670, P-0719, P-0925, P-0943, and P-1031. In addition to the names of the witnesses, such identifying information may include their (1) personal details such as their signatures, dates and places of birth, places of residence, educational and occupational backgrounds, and names and identifying information on family members; (2) information related to their arrest and detention, such as exact dates of their arrest and release, the sequence of cell (and section) numbers where they were detained or names and

⁸⁴ [REDACTED].

⁸⁵ ICC-01/12-01/15-61, para. 8. *See also* ICC-01/12-01/18-174-tENG-Red, para. 31.

⁸⁶ ICC-01/04-01/07-476, para. 49.

⁸⁷ *See above* at paras. 16(a), 29.

identifying information of their cellmates or the fact that they shared the same cell; as well as (3) unique interactions with SDF/RADA members.⁸⁸

40. It is further necessary to withhold certain associated materials related to P-0497, P-0670, P-0719, P-0925, and P-1031, where the materials themselves would be identifying, and redactions could not be effectively implemented. [REDACTED].⁸⁹

41. In the case of P-0342, [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. Given [REDACTED], the Prosecution has, instead of applying extensive redactions, set out the parts of his statement relevant to the EL HISHRI case verbatim in an anonymised summary.⁹⁰

42. Accordingly, the non-disclosure of their identities is the only practical measure capable of averting the severe and immediate risks identified. It remains the least intrusive option available that meaningfully safeguards the seven Witnesses.

4. Withholding the identities is proportionate

43. The Defence and Mr EL HISHRI will not be prejudiced by withholding the identities of the seven Witnesses.

44. When assessing this last criterion, the Chamber should give due consideration of the pre-trial nature of proceedings in which the non-disclosure is sought, considering, as held by the Appeals Chamber, that “[a]s such it may be permissible to withhold the disclosure of certain information from the Defence prior to the hearing to confirm the charges that could not be withheld prior to trial.”⁹¹

45. Withholding the identities of the seven Witnesses, disclosing redacted versions of the witness statements and associated materials of P-0497, P-0670, P-0719, P-0925, P-0943, and P-1031 as well as a summary of P-0342 will not prejudice Mr EL HISHRI’s fair trial rights since: (i) the scope of confirmation proceedings is limited; (ii) in relation to 0497, P-0670, P-0719, P-0925, P-0943, and P-1031, the Defence is receiving redacted versions of their statements and associated materials and the redactions applied do not materially hinder the understanding of the statements in terms of the substance of the witnesses accounts; (iii) in

⁸⁸ The Prosecution has set out in detail in Annex 1 the bases for the non-standard redactions applied.

⁸⁹ The Prosecution has set out in detail in Annex 2 the reasons why these documents may be identifying and should be withheld.

⁹⁰ LBY-OTP-02790777; LBY-OTP-02856214.

⁹¹ ICC-01/04-01/07-475, para. 68.

relation to P-0342 the summary provides the relevant parts of P-0342's account in verbatim and the rest is not relevant to this case; (iii) the number of witnesses for whom non-disclosure of identity is sought is limited and the Defence is receiving the preponderance of the witness statements cited in the Warrant of Arrest without identity redactions; and (v) the evidence of the relevant witnesses is corroborative of other evidence available to the Defence.

46. Finally, the limited interference with Mr EL HISHRI's fair trials rights is justified by the gravity of the risks. As demonstrated above, SDF/RADA's demonstrated capacity and motivation to target former detainees, coupled with Mr EL HISHRI and SDF/RADA's history of targeting former detainees including through the use extreme violence and killings, [REDACTED] any disclosure, could expose the Witnesses and their families to immediate and irreversible harm. In this context, the proposed non-disclosure of identities represents a proportionate response to mitigate severe risks.

D. CONCLUSION AND RELIEF SOUGHT

47. For the foregoing reasons, the Prosecution respectfully requests the Chamber to authorise the non-disclosure of the identities of these witnesses.

48. The Prosecution will continue assessing the risk to the safety and security of its witnesses and immediately inform the Chamber of any changes to the current security situation.



Nazhat Shameem Khan
Deputy Prosecutor

Dated this 26th day of February 2026

At The Hague, The Netherlands