

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/11-01/25

Date: 10 March 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

Public Redacted Version of “Prosecution’s request for contact restrictions pursuant to regulation 101(2) of the Regulations of the Court”, ICC-01/11-201-US-Exp, 4 August 2025

Source: Office of the Prosecutor

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M. Zavala Giler, Osvaldo

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A. INTRODUCTION

1. On 16 July 2025, authorities of the Federal Republic of Germany arrested Mr Khaled Mohamed Ali EL HISHRI pursuant to a warrant of arrest issued against him by Pre-Trial Chamber I on 10 July 2025.¹ The Prosecution requests measures to restrict Mr EL HISHRI's communications from the Detention Centre in The Hague immediately upon his surrender to the International Criminal Court.² This request is made in accordance with articles 57(3)(a) and 68(1) of the Rome Statute, regulations 97, 98, 99(l)(i), and 101(2) of the Regulations of the Court,³ and regulations 97 and 174(1) of the Regulations of the Registry.⁴

2. There are reasonable grounds to believe that contact between Mr EL HISHRI and non-privileged persons could result in the dissemination of confidential material, put the safety and security of victims and witnesses as well as their families at risk, and ultimately jeopardise the integrity of the proceedings at the Court [REDACTED]. Mr EL HISHRI's associates are operating from Tripoli, with strong connections to State institutions and other armed groups, as well as with full control of the Mitiga International Airport and the port of Tripoli. SDF/RADA, which is aware of the Prosecution's investigation into their activities, [REDACTED]. Mr EL HISHRI's close associate and subordinate against whom there is an ICC arrest warrant – Osama El Masri NJEEM – is currently residing in Tripoli and may have a strong interest to obstruct the ICC investigation and prosecution against him. [REDACTED].

3. [REDACTED]. [REDACTED], [REDACTED]; [REDACTED]; [REDACTED].⁵

4. It is critical that deliberate leaks of confidential information be preventatively blocked, as the security situation of witnesses and their families in this case is precarious. [REDACTED]⁶ [REDACTED]. The Prosecution therefore requests the Pre-Trial Chamber to order the Registry to implement restricted communication measures set out in paragraphs 27-28 below, from the time that Mr EL HISHRI is taken into ICC custody and detained at the ICC Detention Centre until the end of the Confirmation Hearing.

¹ Warrant of Arrest for Mr Khaled Mohamad Ali El Hishri, 10 July 2025, [ICC-01/11-188](#) ("El Hishri Warrant of Arrest").

² "Court" or "ICC".

³ "RoC".

⁴ "RoR".

⁵ [REDACTED]

⁶ "VWS".

B. CLASSIFICATION

5. This request is filed under seal and *ex parte*, only available to the Prosecution and Registry in accordance with regulation 23*bis* of the RoC, because of its sensitive and confidential content. Such content includes, *inter alia*, the security situation of vulnerable witnesses, confidential filings in other cases [REDACTED]⁷ [REDACTED]. At the time of filing, a confidential redacted version⁸ as well as a public redacted version⁹ of the arrest warrant application against Mr EL HISHRI have been submitted to the Chamber, and the Registry reclassified the latter document as public pursuant to the Chamber's orders.¹⁰ [REDACTED].

6. The Prosecution will file a confidential redacted version of this request upon the suspect's surrender to the Court. A public redacted version will be filed in due course.

C. SUBMISSIONS

7. Regulations 99(h) and (i) and 100(1) of the RoC state that a detained person is entitled to receive, "correspondence, mail and packages", "communicate by letter or telephone with his or her family and other persons", and "receive visits". These prerogatives are not absolute and a Chamber may, under regulation 101(2) of the RoC, "prohibit, regulate or set conditions for contact between a detained person and any other person, with the exception of counsel". Restrictions can be ordered where there are reasonable grounds to believe that such contact:

"(b) [c]ould prejudice or otherwise affect the outcome of the proceedings against a detained person, or any other investigation;

(c) [c]ould be harmful to a detained person or any other person;

(d) [c]ould be used by a detained person to breach an order for non-disclosure made by a judge;

(e) [is] against the interests of public safety; or

⁷ [REDACTED]

⁸ Confidential Redacted Version of "Prosecution's application under article 58 for a warrant of arrest against Khaled Mohamed Ali EL HISHRI ("Khaled AL HISHRI")", ICC-01/11-172-US-Exp, 3 April 2025, 28 July 2025, [ICC-01/11-172-Conf-Red-Corr.](#)

⁹ Public Redacted Version of "Prosecution's application under article 58 for a warrant of arrest against Khaled Mohamed Ali EL HISHRI ("Khaled AL HISHRI")", ICC-01/11-172-US-Exp, 3 April 2025, 30 July 2025, [ICC-01/11-172-Red.](#)

¹⁰ Order to the Registry to reclassify the warrant of arrest for Mr Khaled Mohamed Ali El Hishri, 31 July 2025, [ICC-01/11-198.](#)

(f) [is] a threat to the protection of the rights and freedom of any person”.¹¹

8. The preventative function of contact restrictions adopted under regulation 101(2) is emphasised by the use of the word “could”. [REDACTED].¹² It is, thus, not incumbent on the Prosecution to establish that there are reasonable grounds to believe that the detained person has or is engaging in conduct that give rise to the consequences outlined in regulation 101(2), but rather that this may result from unrestricted communications.

9. The security situation of witnesses and their families who reside in Libya is precarious. In the context of extensive disclosure of witnesses’ identity and statements to the suspect and [REDACTED], [REDACTED]. [REDACTED]. Preventative measures such as restrictions on the suspect’s communications will significantly decrease the risk of deliberate interference.

10. Mr EL HISHRI, [REDACTED], [REDACTED] and SDF/RADA all stand to benefit from the collapse of the case against EL HISHRI. As set out below, they have the capability to intimidate witnesses and have done so in the past, along with active concealment of their crimes and refusal to abide by judicial orders. In light of these circumstances, the contact restrictions sought are necessary and proportionate to safeguard the integrity of the proceedings, and to protect the physical and psychological safety of witnesses, victims and their families.

A. Mr EL HISHRI, his associates, and SDF/RADA have the capability to interfere and intimidate witnesses

11. The Chamber found that the SDF/RADA has an “ability to command significant resources”.¹³ SDF/RADA continues to have the human and financial means, physical reach, surveillance capabilities, influence, and territorial and aerial control needed to interfere and intimidate witnesses. SDF/RADA’s control over the only functioning international airport, Mitiga Airport, and the port of Tripoli are significant indications of its formidable capabilities.

12. Addressing the capabilities of SDF/RADA and other armed groups on Libyan television on 6 July 2025,¹⁴ Libyan Prime Minister Abdulhamid al-Dabaiba explained that “they grew and they grew too powerful. They began to see the State as small compared to the resources at their disposal”,¹⁵ and “[t]hey became a State within a State” with weapons that “rival the

¹¹ Regulation 101(2), RoC.

¹² [REDACTED].

¹³ El Hishri Warrant of Arrest, para. 19.

¹⁴ [LBY-OTP-00022471](#); [LBY-OTP-00022509](#); [LBY-OTP-00022510](#); [LBY-OTP-00022511](#).

¹⁵ [LBY-OTP-00022509](#), p.4.

State's".¹⁶ The Prime Minister concluded that because of this they are "holding State's institutions to ransom".¹⁷

13. Notably, the SDF/RADA's capacities have been incrementally enlarged under the auspices of the GNU. For example, when the SDF/RADA was renamed Deterrence Apparatus for Combatting Organised Crime and Terrorism¹⁸ and formally affiliated with Ministry of Interior in 2018,¹⁹ it became responsible for, *inter alia*, border security and protection, surveillance, and public orders. DACOT was then granted independent financial personality with funding from both the national budget and the proceeds of seized assets.²⁰

14. Through its contacts and powers, SDF/RADA is believed to have [REDACTED].²¹ [REDACTED]. [REDACTED] [REDACTED],²² [REDACTED],²³ and [REDACTED].²⁴ Mr NJEEM has significant assets, including property, in the United Kingdom.²⁵

15. Mr EL HISHRI was stationed in Kyiv, Ukraine and Rabat, Morocco.²⁶ He is believed to have been deployed as security *attaché* at the Libyan embassy in Rabat, Morocco,²⁷ a position in which he is likely to have had access to – and possibly gathered – intelligence, and developed an extensive network of contacts within the Libyan security and intelligence apparatus.

16. Mr EL HISHRI is indispensable to SDF/RADA. He is a sheikh, senior and founding member of the SDF/RADA,²⁸ and his family helped cement the group.²⁹ Mr EL HISHRI's uncle is also a senior member of the group, one of his brothers is a shift commander and another is known to have worked at Mitiga prison.³⁰ Before SDF/RADA deployed Mr EL HISHRI to

¹⁶ [LBY-OTP-00022510](#), p. 3.

¹⁷ [LBY-OTP-00022510](#), p. 3.

¹⁸ "DACOT".

¹⁹ Prosecution's application under article 58 for a warrant of arrest against Khaled Mohamed Ali EL HISHRI ("Khaled AL HISHRI"), 3 April 2025, ICC-01/11-172-US-Exp ("El Hishri Arrest Warrant Application"), para. 37; Independent Fact-Finding Mission on Libya, Conference Room Paper, [Detailed Findings of the Independent Fact-Finding Mission](#), 24 March 2023, A/HRC/52/CRP.8, paras. 199-205.

²⁰ El Hishri Arrest Warrant Application, para. 37.

²¹ [REDACTED]

²² [REDACTED]

²³ [REDACTED]

²⁴ [REDACTED]

²⁵ [REDACTED]. See also Statement of ICC Prosecutor Karim A.A. Khan KC to the United Nations Security Council on the Situation in Libya, pursuant to Resolution 1970 (2011), referring to the freezing of "accounts and properties with a combined value of 12 million pounds sterling".

²⁶ El Hishri Arrest Warrant Application, para. 3.

²⁷ [LBY-OTP-00018577](#); [LBY-OTP-00019195](#), para. 122; [LBY-OTP-00020267](#), para. 125; [LBY-OTP-00019245](#), para. 79.

²⁸ El Hishri Warrant of Arrest, para. 94.

²⁹ El Hishri Arrest Warrant Application, para. 110.

³⁰ El Hishri Arrest Warrant Application, para. 110.

the Libyan Ministry of Foreign Affairs,³¹ he exercised authority “over all Mitiga Prison staff and detainees”³² [REDACTED].³³ Mr EL HISHRI is also a person with authority over other SDF/RADA members: the Chamber found that he was “feared and obeyed” and prison staff were unable to challenge his decisions.³⁴ For all these reasons, Mr EL HISHRI could contact his associates and instruct them to take steps to prejudice or otherwise affect the outcome of proceedings against him.

B. EL HISHRI and SDF/RADA have a history of concealing crimes, intimidating witnesses, and violating judicial orders

17. Not only does SDF/RADA have the capability to interfere and intimidate witnesses, SDF/RADA members including Mr EL HISHRI have already used their positions and power to do so in multiple instances. [REDACTED].³⁵ [REDACTED].

18. [REDACTED].³⁶ [REDACTED] [REDACTED].³⁷

19. [REDACTED].³⁸ [REDACTED].³⁹[REDACTED].⁴⁰

20. SDF/RADA members, including Mr NJEEM, have also taken measures to conceal their crimes. This includes limiting access of external visitors to parts of the Mitiga Prison that detainees were not permitted to use and by keeping other areas of the prison hidden.⁴¹ [REDACTED, [REDACTED],⁴² [REDACTED].⁴³ Moreover, before being released, some detainees were instructed to remain silent about their detention at Mitiga Prison or they would be killed or detained again and never released.⁴⁴ [REDACTED].⁴⁵ [REDACTED] [REDACTED]⁴⁶ [REDACTED] [REDACTED].⁴⁷

³¹ El Hishri Arrest Warrant Application, para. 3.

³² El Hishri Warrant of Arrest, para. 96. *See also* El Hishri Warrant of Arrest, para. 99.

³³ [REDACTED]. *See also* [REDACTED]; [REDACTED]; [REDACTED]

³⁴ El Hishri Warrant of Arrest, para. 99.

³⁵ [LBY-OTP-00022508](#).

³⁶ [REDACTED]; [REDACTED]

³⁷ [REDACTED]; [REDACTED]

³⁸ [REDACTED]

³⁹ [REDACTED]

⁴⁰ [REDACTED]

⁴¹ [REDACTED]; [REDACTED]; [REDACTED]

⁴² [REDACTED]; [REDACTED]

⁴³ [REDACTED]

⁴⁴ [LBY-OTP-00015360](#), paras. 182 and 186. *See also* [LBY-OTP-0073-0025](#), para. 38.

⁴⁵ [REDACTED]

⁴⁶ [REDACTED]

⁴⁷ [REDACTED]

21. Although SDF/RADA operates under a veneer of legitimacy by virtue of its members' and the group's incorporation into the State apparatus, it does not consistently respect the orders of judicial authorities or abide by the law. To the contrary, the United Nations Panel of Experts concluded in 2023 that DACOT "intentionally deprived detainees of the protection of the law by repeatedly refusing to implement official judicial decisions, including court orders to bring detainees before a judge".⁴⁸ Similarly, the Independent Fact-Finding Mission on Libya stated in its final report that "Mission investigators received many accounts of release orders issued by the appropriate Libyan authorities that were either not honoured or only carried out at a much later date [...] It was common practice among prison administrations to ignore Libyan judicial and prosecutorial orders for release",⁴⁹ giving examples of when this had occurred at Mitiga prison under SDF/RADA.⁵⁰

22. In light of the above, interference in the proceedings at the Court and intimidation of Prosecution witnesses is consistent with SDF/RADA's past conduct aimed at evading accountability.

C. Interference, intimidation and dissemination of confidential information
[REDACTED]

23. Interference and intimidation of witnesses in the EL HISHRI case, as well as dissemination of confidential information, will adversely affect the case and witnesses and victims associated with it, [REDACTED]. [REDACTED], [REDACTED].

24. Indeed, [REDACTED]: [REDACTED], [REDACTED];⁵¹ [REDACTED]; [REDACTED], and; [REDACTED], [REDACTED].

25. As part of the proceedings in the case against Mr EL HISHRI, he and/or his Counsel will receive incriminating and exculpatory evidence in accordance with the Court's legal framework [REDACTED]. [REDACTED].⁵² Unauthorised sharing of information disclosed to

⁴⁸ UN Panel of Expert, Final report of the Panel of Experts established pursuant to resolution 1973 (2011) concerning Libya, 15 September 2023, S/2023/673, para. 44.

⁴⁹ Independent Fact-Finding Mission on Libya, Conference Room Paper, [Detailed Findings of the Independent Fact-Finding Mission](#), 24 March 2023, A/HRC/52/CRP.8, para. 89.

⁵⁰ Independent Fact-Finding Mission on Libya, Conference Room Paper, [Detailed Findings of the Independent Fact-Finding Mission](#), 24 March 2023, A/HRC/52/CRP.8, paras. 89 and 87-90.

⁵¹ El Hishri Arrest Warrant Application, para. 32.

⁵² [REDACTED]

Mr EL HISHRI within the remit of the case against him as well as (attempts at) interference and intimidation of witnesses will inevitably have a knock-on effect [REDACTED].

D. The requested contact restrictions are necessary, proportionate and in accordance with the law

26. [REDACTED]. [REDACTED]. [REDACTED]. It is therefore critical to take all reasonable measures to *prevent* interference and intimidation of witnesses.

27. The Prosecution avers that the following contact restrictions are both necessary and proportionate to ensure the integrity of proceedings, witness protection, and to prevent the unauthorised sharing of confidential material. It respectfully requests the Chamber to order the Registry to:

- a. Limit Mr EL HISHRI's telephone calls, visits, and correspondence to a restricted number of persons, with the exception of duly appointed counsel and diplomatic and/or consular assistance under regulations 97 and 98 of the RoC. Authorised persons should be identified in consultation with the Prosecution, with their identity and contact details duly verified with the support of the Victims and Witnesses Section and a reliable means of identifying them through voice recognition when in contact with the suspect;
- b. Limit any and all communication exchanged over telephone calls, correspondence, and during visits to a language that the Registry understands such as Standard Arabic and prohibit the use of obscure, slang or coded language aimed at bypassing or violating the ordered measures;
- c. Prohibit any discussion related to the case or potential witnesses, whether over telephone calls, in written correspondence, or during visits other than with duly appointed counsel;
- d. Instruct the Chief Custody Officer to review all correspondence to and from Mr EL HISHRI;
- e. Instruct Detention Centre staff to be within hearing and sight of non-privileged visits with EL HISHRI; and

- f. Actively monitor all non-privileged telephone calls with Mr EL HISHRI under regulation 175 of the Regulations of the Registry.

28. To give effect to these restrictions, the Prosecution further requests the Chamber to instruct the Registry to:

- a. Limit the duration of non-privileged telephone calls to a maximum two 60-minute sessions per week and non-privileged visits to a maximum of 90 minutes per week;
- b. Immediately end conversations when restrictions are believed to be violated;
- c. Intercept and confiscate correspondence when restrictions are believed to be violated;
- d. Maintain a log of all non-privileged telephone calls and visits with Mr EL HISHRI, including names, times, dates, and duration of telephone calls/correspondence/visits. The log should be shared with the Prosecution;
- e. Immediately inform the Pre-Trial Chamber and the Prosecution whenever restrictions are not respected;
- f. Ensure that visitation areas are devoid of music or loud noise that may impair hearing;
- g. Ensure that the suspect does not enter the visitation area with documents or materials of a privileged or confidential nature pertaining to the ICC case against him;
- h. Inform those authorised to communicate with the suspect that they may not discuss confidential or protected information, may not speak in code or deliberately lower their voices to conceal what they are saying, and may not record the conversation or give access to the communication to any third party;
- i. Ensure that no unannounced or unauthorised individual participates in a call with Mr EL HISHRI, passively or actively listens to calls with Mr EL HISHRI, or otherwise receives or obtains the content of calls with Mr EL HISHRI aurally or textually. For this reason, prohibit the use of speaker phone and the audio-or video recording of any calls with Mr EL HISHRI; and

- j. Add persons to the list of persons authorised to communicate with Mr EL HISHRI only by permission of the Chamber, and in consultation with the Prosecution.

29. The Prosecution requests that the contact restrictions outlined in paragraphs 27-28 are implemented from the time that Mr EL HISHRI is taken into ICC custody and detained at the ICC Detention Centre until the end of the Confirmation Hearing, after which a renewed assessment can be made periodically. The contact restrictions requested strike an appropriate balance between the need to ensure the integrity of the proceedings, the rights of victims and witnesses, and the rights of the suspect, considering the at-risk situation of witnesses, the past patterns of interference and intimidation on the part of SDF/RADA, and the far-reaching ramifications that any interference and intimidation will have [REDACTED].

D. CONCLUSION AND RELIEF SOUGHT

30. For the foregoing reasons, the Prosecution respectfully requests the Pre-Trial Chamber to order the Registry to implement the contact restrictions set out in paragraphs 27-28 above.



Nazhat Shameem Khan
Deputy Prosecutor

Dated this 10th day of March 2026
At The Hague, The Netherlands