

**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

With confidential Annex 1

Public Redacted Version of 'Prosecution's provision of additional information regarding contact restrictions and second request for contact restrictions pursuant to regulation 101(2) of the Regulations of the Court', ICC-01/11-01/25-21-Conf-Red, 3 December 2025

Source: Office of the Prosecutor

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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 (“EL HISHRI”) pursuant to a warrant of arrest issued against him by Pre-Trial Chamber I (the “Chamber”) on 10 July 2025.¹ On 4 August 2025, the Prosecution requested measures to restrict Mr EL HISHRI’s communications from the Detention Centre in The Hague immediately upon his surrender to the International Criminal Court (“ICC” or the “Court”).²

2. The Prosecution now provides additional information that is highly relevant for the Chamber’s determination of its First Request for Contact Restrictions. This information confirms and amplifies the necessity of the measures previously sought.³ The security situation in Libya remains volatile, with SDF/RADA continuing to wield influence and engage in acts of intimidation against witnesses, former detainees and others. Moreover, [REDACTED], [REDACTED]. Finally, examples from [REDACTED], [REDACTED], further illustrate the necessity of rigorous screening of contacts, and consultation with the Prosecution in determining his authorised list of non-privileged contacts.

3. In addition, the Prosecution respectfully submits a second request for contact restrictions pursuant to articles 57(3)(a) and 68(1) of the Rome Statute, regulation 101(2) of the Regulations of the Court⁴ and regulation 97 of the Regulations of the Registry⁵. While the First Request for Contact Restrictions sought restrictions to Mr EL HISHRI’s contact with individuals outside the ICC Detention Centre, the present request seeks to restrict Mr EL HISHRI’s contacts with his co-detainees. These measures are necessary to prevent Mr EL HISHRI from sharing confidential information through his fellow detainees, putting the safety and security of victims and witnesses as well as their families at risk, and ultimately jeopardising the integrity of the proceedings at the Court, [REDACTED]. As set out in the submissions below, the requested restrictions are justified, necessary, and proportionate in light of Mr EL HISHRI’s demonstrated ability to manipulate and exploit others for his personal benefit, his history of intimidation and disregard for legal constraints and judicial orders, and the heightened risks posed by his influence and resources. Restrictions on his external contacts alone cannot mitigate these risks; comprehensive measures, including

¹ ICC-01/11-188 (“*El Hishri* Arrest Warrant”).

² ICC-01/11-201-US-Exp (“First Request for Contact Restrictions”).

³ See First Request for Contact Restrictions, paras. 27-28.

⁴ “RoC”.

⁵ “RoR”.

restrictions vis-à-vis fellow detainees, are essential to safeguard the integrity of the proceedings and the safety of witnesses. The Prosecution therefore requests the Chamber to order the Registry to implement the restricted communication measures set out in paragraphs 27 and 28 below, from the time that Mr EL HISHRI is taken into ICC custody and detained at the Detention Centre until the end of the Confirmation Hearing, subject to a periodic review by the Chamber.

B. CLASSIFICATION

4. This request is filed under seal and *ex parte*, only available to the Prosecution and Registry in accordance with regulation 23bis of the RoC because of its sensitive and confidential content. Such content includes, *inter alia*, reference to filings marked with the same classification as well as information regarding the security situation of vulnerable witnesses and [REDACTED] security incidents.

5. 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

I. Additional information relevant to the Prosecution's First Request for Contact Restrictions

i. Mr EL HISHRI, his associates and SDF/RADA retain the capability to interfere with and intimidate witnesses

6. Since the Prosecution filed its First Request for Contact Restrictions, the security situation in Libya has remained both precarious and subject to change. As reported by the UN Secretary-General on 8 August 2025, the situation in Tripoli deteriorated following the killing of the head of the Stability Support Apparatus, Abdulghani AL-KIKLI, on 12 May 2025. Ensuing armed clashes and protests resulted in several civilian casualties, damage to civilian infrastructure and the temporary closure of Mitiga airport and the Ra's Judayr border crossing, as well as the mobilisation of forces in other parts of western Libya. Although a fragile truce was announced on 14 May 2025 among some of the parties to the conflict, including the Stability Support Apparatus, the 444th Brigade, and SDF/RADA, the situation remained volatile.⁶

7. In her most recent briefing to the UN Security Council, the Special Representative of the Secretary-General for Libya has further updated that tensions in Tripoli have "eased"—with an

⁶ [LBY-OTP-00393679](#), paras. 2, 23-34. See also [LBY-OTP-00393680](#), pp. 1-2.

agreement reached between the GNU and SDF/RADA, but that the situation still remains “very fragile”.⁷ In addition, whilst it has been reported that SDF/RADA agreed to withdraw—and may have withdrawn, from the civilian area of Mitiga airport,⁸ the Prosecution has received information to the contrary, indicating that SDF/RADA forces are still present there. The Prosecution also understands that SDF/RADA retains control of Mitiga military base, as well as its weapons and military capabilities.⁹ As such, SDF/RADA still retains formidable capabilities, as described in the Prosecution’s First Request for Contact Restrictions.¹⁰

8. Within this context, as noted in the First Request for Contact Restrictions,¹¹ Mr EL HISHRI’s close associate and subordinate Osama El Masri NJEEM remains at liberty in Tripoli, despite being subject to an ICC arrest warrant.¹² Recently, following the appointment of Abdel Fatah DABOUB as the new Head of the Judicial Police, Mr NJEEM has been replaced as Head of Operations and Judicial Security Management within the Judicial Police by General Suleyman ‘AJAJ.¹³ The Prosecution submits, nonetheless, that Mr NJEEM retains the capacity and motivation to intimidate and otherwise interfere with Prosecution witnesses and thereby obstruct the ICC’s investigations [REDACTED].¹⁴ Notably, it has also been reported that [REDACTED], [REDACTED] “[REDACTED]” [REDACTED] “[REDACTED]”, [REDACTED] “[REDACTED]”.¹⁵

ii. Further analysis [REDACTED]

9. The Prosecution’s ongoing analysis [REDACTED] confirms its previous submission that Mr EL HISHRI possesses both the authority and the network of associates enabling him to take steps to prejudice or otherwise affect the outcome of proceedings against him.¹⁶ [REDACTED], [REDACTED],¹⁷ [REDACTED],¹⁸ [REDACTED]. [REDACTED], [REDACTED],¹⁹

⁷ [LBY-OTP-00420472](#), pp. 3-4. See also [LBY-OTP-00393715](#), pp. 2-7.

⁸ See e.g. [LBY-OTP-00393715](#), pp. 2-7; [LBY-OTP-00420472](#), p. 4.

⁹ See e.g. [LBY-OTP-00393715](#), pp. 6-7.

¹⁰ See First Request for Contact Restrictions, paras. 11-14.

¹¹ First Request for Contact Restrictions, para. 2.

¹² ICC-01/11-152-Anx.

¹³ [LBY-OTP-00393710](#); [LBY-OTP-00393728](#). Alternative spellings: Major General ‘Abd-al-Fattah al-Dabub and Major General Sulayman ‘Ajjaj.

¹⁴ First Request for Contact Request, paras. 2, 10, [REDACTED].

¹⁵ [REDACTED]. See also [REDACTED]

¹⁶ First Request for Contact Request, paras. 15-16.

¹⁷ [REDACTED]. See e.g. [REDACTED], [REDACTED]; [REDACTED], [REDACTED]; [REDACTED], [REDACTED]; [REDACTED], [REDACTED]; [REDACTED], [REDACTED]; see REDACTED. [REDACTED]; see [REDACTED]. [REDACTED]; see e.g. [REDACTED], [REDACTED].

¹⁸ [REDACTED], [REDACTED]. See also [REDACTED], [REDACTED]: [REDACTED].

¹⁹ [REDACTED], [REDACTED]; [REDACTED], [REDACTED]; [REDACTED], [REDACTED].

[REDACTED], [REDACTED],²⁰ [REDACTED].²¹ [REDACTED], [REDACTED]²²—
[REDACTED].²³

iii. *SDF/RADA has continued to intimidate or otherwise interfere with victims and witnesses*

10. [REDACTED] — [REDACTED], [REDACTED] — [REDACTED].

- a. [REDACTED].²⁴
- b. [REDACTED] ([REDACTED]²⁵) [REDACTED].²⁶
- c. [REDACTED], [REDACTED]. [REDACTED], [REDACTED]. [REDACTED],
[REDACTED].²⁷
- d. [REDACTED].²⁸
- e. [REDACTED];²⁹ [REDACTED].³⁰

iv. *Examples from Mr EL HISHRI's* [REDACTED]

11. [REDACTED], [REDACTED], [REDACTED] “[REDACTED]” [REDACTED].
[REDACTED], [REDACTED] ([REDACTED]) [REDACTED] ([REDACTED]),
[REDACTED] ([REDACTED]) [REDACTED] ([REDACTED]), [REDACTED].
[REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED],
[REDACTED] “[REDACTED]”.

12. [REDACTED], [REDACTED], [REDACTED]; [REDACTED], [REDACTED].

13. [REDACTED], [REDACTED] ([REDACTED]) [REDACTED]. [REDACTED].
[REDACTED], [REDACTED], [REDACTED].³¹ [REDACTED],³² [REDACTED],³³

²⁰ [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]: “[REDACTED]”.

²¹ [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] “[REDACTED]”;
[REDACTED] “[REDACTED]” [REDACTED]; [REDACTED], [REDACTED], [REDACTED].

²² [REDACTED], [REDACTED], [REDACTED], [REDACTED]; [REDACTED], [REDACTED],
[REDACTED]; [REDACTED], [REDACTED]. [REDACTED], *see* [REDACTED].

²³ *See also*, [REDACTED], [REDACTED].

²⁴ [LBY-OTP-00022662](#). *See further* [LBY-OTP-00057815](#), p. 2.

²⁵ [LBY-OTP-00022625](#), paras. 8-9. [REDACTED].

²⁶ [LBY-OTP-00022625](#), paras. 5-7.

²⁷ [REDACTED]. *See also, e.g.*, [REDACTED] ([REDACTED].); [REDACTED] ([REDACTED]). *See further*,
[REDACTED]: [REDACTED]; [REDACTED]; *see* [REDACTED] ([REDACTED]).

²⁸ [LBY-OTP-00393681](#).

²⁹ [LBY-OTP-00022788](#), paras. 4, 14; p. 5.

³⁰ [LBY-OTP-00022788](#), para. 6.

³¹ *See e.g.*, [REDACTED], [REDACTED] ([REDACTED] “[REDACTED]”/ “[REDACTED]”); [REDACTED]
([REDACTED] “[REDACTED]”); [REDACTED] ([REDACTED] “[REDACTED]”); [REDACTED]
([REDACTED] “[REDACTED]”). *See also*, [REDACTED] “[REDACTED]” [REDACTED], [REDACTED],
[REDACTED], [REDACTED].

³² *See e.g.* [REDACTED], [REDACTED], [REDACTED].

³³ *See e.g.* [REDACTED], [REDACTED] [REDACTED].

[REDACTED],³⁴ [REDACTED].³⁵ [REDACTED],³⁶ [REDACTED],³⁷ [REDACTED].³⁸ [REDACTED], [REDACTED] — [REDACTED] — [REDACTED]. [REDACTED], [REDACTED]. [REDACTED], [REDACTED], [REDACTED]³⁹ — [REDACTED]— [REDACTED]⁴⁰ [REDACTED]⁴¹ [REDACTED].⁴² [REDACTED], [REDACTED], [REDACTED] “[REDACTED]” [REDACTED].⁴³

14. These instances, together with SDF/RADA’s capacity to acquire and use fake identification documents,⁴⁴ underscore the imperative for the Registry to consult the Prosecution prior to authorising any communication with Mr EL HISHRI.⁴⁵ In contrast with, for instance, Dutch procedures, where detainee contacts are subject to rigorous vetting,⁴⁶ necessitate in-person visits to official facilities,⁴⁷ and where authorities possess the means to effectively investigate allegations of witness interference, [REDACTED]. Given that the Prosecution, as the investigating party, holds the most comprehensive and case-specific information, its involvement in the vetting of proposed non-privileged contacts constitutes a safeguard essential to protecting witnesses and preserving the integrity of the proceedings.

II. Second request for contact restrictions

15. The Prosecution requests that the Chamber orders contact restrictions to prevent Mr EL HISHRI from using his fellow detainees to share confidential information, putting the safety and security of victims and witnesses as well as their families at risk, and ultimately jeopardising the integrity of the proceedings at the Court, [REDACTED]. The requested restrictions are justified and proportionate.

³⁴ See e.g. [REDACTED], [REDACTED], [REDACTED].

³⁵ See e.g. [REDACTED], [REDACTED], [REDACTED] ([REDACTED] “[REDACTED]”); [REDACTED]; [REDACTED].

³⁶ See e.g. [REDACTED], [REDACTED], [REDACTED] ([REDACTED]), [REDACTED] ([REDACTED]).

³⁷ [REDACTED], [REDACTED], [REDACTED].

³⁸ [REDACTED], [REDACTED], [REDACTED].

³⁹ See e.g. [REDACTED], [REDACTED], [REDACTED] ([REDACTED] “[REDACTED]”/ “[REDACTED]”); [REDACTED] ([REDACTED] “[REDACTED]”); [REDACTED] ([REDACTED] “[REDACTED]”); [REDACTED] ([REDACTED] “[REDACTED]”).

⁴⁰ [REDACTED], [REDACTED], [REDACTED] ([REDACTED] “[REDACTED]”); [REDACTED], [REDACTED], [REDACTED].

⁴¹ [REDACTED], [REDACTED], [REDACTED] ([REDACTED] “[REDACTED]”); [REDACTED] ([REDACTED] “[REDACTED].”); [REDACTED], [REDACTED], [REDACTED]; [REDACTED], [REDACTED], [REDACTED] ([REDACTED]).

⁴² [REDACTED]; see [REDACTED].

⁴³ See [REDACTED], [REDACTED], [REDACTED]. [REDACTED].

⁴⁴ See [LBY-OTP-00020302](#), para. 162. See also [LBY-OTP-00393716](#), pp. 2-6. See further [LBY-OTP-00393727](#), pp. 1-2.

⁴⁵ See First Request for Contact Restrictions, paras. 27(a), 28(j).

⁴⁶ For Dutch vetting system, see fn. 76 below. See also [REDACTED], [REDACTED].

⁴⁷ See para. 25 below.

16. Any interference with the exercise of the right to respect for a detained person's private and family life must be in accordance with internationally recognised human rights law,⁴⁸ and as such "be necessary, *inter alia*, for the prevention of disorder and crime and protection [of] the rights and freedoms of others; and remain proportionate to the legitimate aim pursued."⁴⁹

i. The requested restrictions are in accordance with the law

17. The requested measures are consonant with the law. The legal framework governing contact restrictions is clear, accessible, and predictable.⁵⁰ The criteria for implementing measures restricting or prohibiting communication are expressly stated in the provisions governing the Court, namely regulation 101 of the RoC and regulations 169 to 184 of the RoR.⁵¹ These provisions are publicly accessible to detainees and their counsel, enabling them to anticipate, with reasonable certainty, the conduct that may give rise to contact restrictions and the conditions under which such measures may be imposed.⁵² Accordingly, the legal basis for contact restrictions is firmly grounded in the Court's established rules and jurisprudence.

ii. The requested restrictions are necessary to safeguard the integrity of the proceedings and the safety and security of victims, witnesses, and their families

18. The requested restrictions pursue a legitimate aim and are necessary in the case at hand. Similar measures have been imposed in a case where the relevant Chamber found that such measures were necessary to *inter alia* "prevent any further intervention by [the accused] which might obstruct or disrupt the conduct of the proceedings and affect the witnesses' safety".⁵³ Relevant factors to consider include the "suspects' position of influence, their capacity to locate (potential) witnesses, [...] the security situation in [situation country]",⁵⁴ as well as the

⁴⁸ ICC-01/12-01/18-557-Red ("Al Hassan Decision on Contact Restrictions"), para. 10; ICC-01/04-01/07-1243-tENG-Red ("Katanga & Ngudjolo Chui Decision on Contact Restrictions"), paras. 18-19.

⁴⁹ Katanga & Ngudjolo Chui Decision on Contact Restrictions, para. 19 citing European Court of Human Rights ("ECtHR"), *Messina v. Italy*, Appl. no. 25498/94, "Judgment", 28 September 2000; *Lavents v. Latvia*, Appl. no. 58442/00, "Judgment", 28 November 2002; *Van der Ven v. The Netherlands*, Appl. No. 50901/99, "Judgment", 4 February 2003; *Kornakovs v. Latvia*, Appl. No. 61005/00, "Judgment", 15 June 2006; *Moiseyev v. Russia*, Appl. No. 62936/00, "Judgment", 9 October 2008. See also, e.g., ECtHR, *Lorsé and other v. The Netherlands*, Appl. no. 52750/99, "Judgment", 4 February 2003, paras. 82-86; *Kanalas v Romania*, Appl. no. 20323/14, "Judgment", 6 December 2016, paras. 53-55.

⁵⁰ Katanga & Ngudjolo Chui Decision on Contact Restrictions, paras. 23, 25.

⁵¹ See also Katanga & Ngudjolo Chui Decision on Contact Restrictions, paras. 22-23.

⁵² Katanga & Ngudjolo Chui Decision on Contact Restrictions, para. 23.

⁵³ Katanga & Ngudjolo Chui Decision on Contact Restrictions, para. 31. See also regulation 101(2)(b)-(f) of the RoC; ICC-01/14-01/18-484-Red ("Yekatom & Ngaïssona Decision on Ngaïssona's Contact Restrictions"), para. 17; Al Hassan Decision on Contact Restrictions, para. 10; ICC-01/04-02/06-1817-Red ("Ntaganda Appeals Decision on Contact Restrictions"), para. 44.

⁵⁴ ICC-01/14-01/18-161 ("Yekatom & Ngaïssona Decision on Leave to Appeal Contact Restrictions"), para. 32. See also ICC-02/04-01/15-254, para. 7.

“extremely violent *modus operandi* of the armed groups that [the suspect] is allegedly associated with”.⁵⁵

19. In the present case, the additional measures are necessary to prevent Mr EL HISHRI from using fellow detainees to share confidential information, putting the safety and security of victims and witnesses as well as their families at risk, and ultimately jeopardising the integrity of the proceedings. As set out in the Prosecution’s First Request for Contact Restrictions, Mr EL HISHRI, his associates and SDF/RADA have both the capability to interfere with and intimidate witnesses and a history of concealing crimes, intimidating witnesses and violating judicial orders.⁵⁶ [REDACTED].⁵⁷ [REDACTED] — [REDACTED] — [REDACTED]. To ensure the effectiveness of the external restrictions sought in the First Request for Contact Restrictions and prevent circumvention, his communications within the Detention Centre must also be controlled.

20. This necessity is reinforced by Mr EL HISHRI’s past conduct, which demonstrates a pattern of disregard for legal constraints and willingness to threaten witnesses or detainees and to manipulate others for his personal benefit. [REDACTED] [REDACTED].⁵⁸ Furthermore, his record reflects a pattern of flagrant disregard for the law, including acts of violence and exploitation within detention facilities—involving the torture and killing of detainees⁵⁹—as well as extortion of detainees at Mitiga and others for his personal benefit.⁶⁰ In light of this history, there are reasonable grounds to believe⁶¹ that Mr EL HISHRI will persist in efforts to prejudice the proceedings and intimidate witnesses by sharing confidential information via his fellow detainees, particularly now that his liberty is at stake.

⁵⁵ ICC-01/12-01/18-340-tENG-Red, para. 52.

⁵⁶ First Request for Contact Restrictions, paras. 11-22.

⁵⁷ See para. 10 above.

⁵⁸ See [REDACTED].

⁵⁹ See e.g. *El Hishri* Arrest Warrant, paras. 66, 95-97; *El Hishri* Arrest Warrant Application, paras. 81-83, 121-123.

⁶⁰ [LBY-OTP-0070-7295](#), paras. 30-31, 102-103, 143. See also [LBY-OTP-0080-0608](#), para. 80; [LBY-OTP-00015405](#), para. 105; [LBY-OTP-00020267](#), para. 127. This is emblematic of SDF/RADA’s operational strategy, which relies heavily on systematic extortion—not as an occasional tactic, but as a core mechanism for generating revenue and advancing its illicit objectives, see [LBY-OTP-0065-0649](#), para. 52; [LBY-OTP-0066-0951](#), paras. 25, 98; [LBY-OTP-0069-0584](#), paras. 128, 170, 182; [LBY-OTP-00007250](#), paras. 44, 66; [LBY-OTP-0069-0506](#), paras. 36-37, 64, 134; [LBY-OTP-0080-0032](#), paras. 19, 39-41, 64-65, 111, 141; [LBY-OTP-0080-0169](#), para. 230; [LBY-OTP-00020358](#), para. 74; [LBY-OTP-00001491](#), paras. 22-25, 30, 34; [LBY-OTP-0080-0608](#), paras. 98, 119-120; [LBY-OTP-0070-7295](#), paras. 102-103, 188; [LBY-OTP-00020099](#), paras. 66, 74; [LBY-OTP-00016896](#), para. 87; [LBY-OTP-00018119](#), paras. 70, 92; [LBY-OTP-00020173](#), paras. 26, 28; [LBY-OTP-00019195](#), paras. 25, 27, 138; [LBY-OTP-00022410](#), paras. 57-58, 60; [LBY-OTP-00020236](#), paras. 25-26, 29, 34, 42, 65, 75; [LBY-OTP-00020267](#), paras. 52, 66.

⁶¹ See regulation 101(2) of the RoC and ICC-01/14-01/21-31-Red, para. 32.

21. It is therefore essential to restrict and closely monitor Mr EL HISHRI's contact and communications with other detainees in the Detention Centre. Mr EL HISHRI's substantial financial resources⁶² and influence⁶³ [REDACTED]. These risks are particularly acute in relation to [REDACTED],⁶⁴ [REDACTED],⁶⁵ [REDACTED],⁶⁶ [REDACTED],⁶⁷ [REDACTED].⁶⁸ External contact restrictions alone would not mitigate these risks, as Mr EL HISHRI's demonstrated ability to manipulate systems and individuals makes circumvention highly probable. Only comprehensive contact restrictions, including restrictions vis-à-vis his fellow detainees can effectively prevent further attempts to prejudice the proceedings and intimidate witnesses.

iii. The requested contact restrictions strike a fair balance between Mr EL HISHRI's rights and the need to safeguard the integrity of the proceedings and the safety and security of victims, witnesses, and their families

22. The requested restrictions are proportionate to the risks posed and strike a careful balance between Mr EL HISHRI's rights and the need to protect the integrity of proceedings and the safety of victims, witnesses, and their families.

23. Regulation 101 requires the Chamber to strike a balance of different interests, "including: the rights of the Defence, the integrity of the proceedings, and the safety and well-being of (potential) witnesses and victims, which the Chamber has a duty to protect".⁶⁹

24. First, the interference with Mr EL HISHRI's right to private and family life is narrowly circumscribed. The Prosecution does not seek complete segregation or isolation from his fellow detainees but the limitation and monitoring of Mr EL HISHRI's contacts with fellow detainees. These measures are tailored to address the identified risks without unduly infringing his rights.

⁶² [LBY-OTP-0074-0889](#), para. 225; [LBY-OTP-00015405](#), para. 105; [LBY-OTP-0080-0608](#), para. 130; [LBY-OTP-00022410](#), para. 36; [LBY-OTP-00057771](#). See also [LBY-OTP-0069-0506](#), paras. 36-37. See also, in relation to the use of financial resources by SDF/RADA, [LBY-OTP-00420407](#).

⁶³ First Request on Contact Restrictions, paras. 15-16.

⁶⁴ [REDACTED] ("[REDACTED]"), [REDACTED] ("[REDACTED]") [REDACTED] ("[REDACTED]"). See [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁶⁵ [REDACTED]. See [REDACTED]; [REDACTED].

⁶⁶ [REDACTED] ([REDACTED]; [REDACTED]), [REDACTED] ("[REDACTED]") [REDACTED] ("[REDACTED]"). [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁶⁷ [REDACTED]. See [REDACTED].

⁶⁸ [REDACTED]. See e.g. [REDACTED]; [REDACTED].

⁶⁹ *Yekatom & Ngaïssona* Decision on Leave to Appeal Contact Restrictions, para. 32. See also Article 68 of the Rome Statute and ICC-01/14-01/21-247-Red, para. 22; *Yekatom & Ngaïssona* Decision on Ngaïssona's Contact Restrictions, para. 17; *Al Hassan* Decision on Contact Restrictions, para. 10; *Ntaganda* Appeals Decision on Contact Restrictions, para. 102.

The Chamber may further safeguard Mr EL HISHRI's rights by providing for a periodic review of the restrictions to ensure they remain necessary and proportionate.

25. Secondly, the proposed regime is consistent with accepted standards in high-security detention systems within The Netherlands, where a number of highly restrictive standard restrictions on contacts and communications between detainees apply in high-security detention regimes, namely the *Afdeling Intensief Toezicht* ("AIT"), intensive supervision units, and the *Extra Beveiligde Inrichting* ("EBI"), the maximum security institution,⁷⁰ accommodating both individuals in pre-trial detention as well as convicted persons.⁷¹ Detainees placed under the AIT regime are held in individual cells and activities are limited to groups of six detainees and are supervised by three to four prison staff as well as CCTV.⁷² At the EBI, detainees are also held in individual cells⁷³ and activities like yard time and exercise are either solitary or under strict supervision and separation⁷⁴ as well as CCTV surveillance.⁷⁵ The contact restrictions between detainees are paired with a number of highly restrictive measures imposed on external contacts, including limitation of non-privileged visits to one hour per week, following prior rigorous screening⁷⁶ of all visitors; limitation of non-privileged telephone contacts to three (AIT) or only one (EBI) call(s) per week of 10 minutes each, with pre-approved and thoroughly screened⁷⁷ contacts only, whereby the non-privileged contact must report to a designated location to take the call, as well as the monitoring and recording of all calls in real time.⁷⁸ Moreover,

⁷⁰ These restrictions were recently updated and the following sets out the new regime that enters into force on 1 November 2025, see Dutch Ministry of Justice News Item on Communication Restrictions at Annex 1, p. 6.

⁷¹ See Dutch Ministry of Justice Website Article on the EBI at Annex 1, p. 33.

⁷² See Dutch Ministry of Justice Weblog Post on AITs at Annex 1, p. 14; Dutch Ministry of Justice Visual Surveillance Information Sheet at Annex 1, p. 19.

⁷³ See NOS News Article on the EBI at Annex 1, p. 26 (picture of cells with only one bed).

⁷⁴ See Dutch Ministry of Justice Website Article on the EBI at Annex 1, p. 34. In 2003, the ECtHR found the EBI's highly restrictive contact restrictions in place at the time, including being allowed to associate with a limited number of fellow prisoners only, to be in accordance with the European Convention on Human Rights ("ECHR"), see ECtHR, *Lorsé and other v. The Netherlands*, Appl. no. 52750/99, "Judgment", 4 February 2003, paras. 82-86; *Van der Ven v. The Netherlands*, Appl. No. 50901/99, "Judgment", 4 February 2003, paras. 68-72.

⁷⁵ See Dutch Ministry of Justice Visual Surveillance Information Sheet at Annex 1, p. 19.

⁷⁶ At the AIT, external contacts must complete a screening form and the National Intelligence and the Security Bureau of the Custodial Institutions Agency will provide a recommendation, based on which the governor of the institution will decide on whether the individual may have contact with the detainee. Screenings usually take about two weeks; longer if the applicant resides abroad. Approval generally is valid for one year; whereas refusal blocks contact for six months, after which reapplication is possible. Persons currently detained or released in the preceding six months cannot be approved, except by ministerial decision. See Dutch Ministry of Justice AIT Detainees Information Sheet for Contact Persons at Annex 1, p. 37.

⁷⁷ *Ibid.*

⁷⁸ See Dutch Ministry of Justice AIT Detainees Information Sheet for Contact Persons at Annex 1, pp. 37-38. See also Dutch Ministry of Justice News Item on Communication Restrictions at Annex 1, p. 6. In 2003, the ECtHR found the EBI's highly restrictive contact restrictions in place at the time, including the monitoring of telephone conversations and conversations with visitors, to be in accordance with the ECHR, see ECtHR, *Lorsé and other v. The Netherlands*, Appl. no. 52750/99, "Judgment", 4 February 2003, paras. 82-86; *Van der Ven v. The Netherlands*, Appl. No. 50901/99, "Judgment", 4 February 2003, paras. 68-72.

conversations must be in a pre-approved language, and any attempt to use coded language results in immediate termination of the call.⁷⁹ Placement within the AIT or EBI regimes is determined by the competent authority of the Ministry of Justice.⁸⁰ AIT accommodates detainees presenting a high flight or societal risk, suspected of serious continued criminal activity while in detention,⁸¹ whereas EBI is reserved for individuals posing an extreme flight risk and/or an unacceptable societal risk due to high likelihood of recidivism, especially involving serious violent crimes as well as the risk of life-threatening or otherwise very serious continued criminal activity from within detention.⁸² The Prosecution submits that Mr EL HISHRI would clearly satisfy the criteria for placement in these high-security regimes, given his leadership position within SDF/RADA,⁸³ his history of extreme physical violence, the risk that he engages in witness intimidation or breaches confidentiality from detention,⁸⁴ his financial resources and influence,⁸⁵ and his capacity to direct associates.⁸⁶ These regimes illustrate that the requested restrictions are consistent with the practice in the Netherlands for managing detainees who pose a serious risk of continued criminal activity from detention.

26. Finally, the limited interference with Mr EL HISHRI's rights is justified by the gravity of the risks. The security environment in Libya remains volatile, and [REDACTED].⁸⁷ [REDACTED]. Coupled with evidence that Mr EL HISHRI and SDF/RADA have used extreme violence, including killings,⁸⁸ to achieve their objectives, any breach of confidentiality restrictions could expose witnesses to grave harm. In this context, the proposed contact restrictions represent a proportionate response to a pressing and legitimate need.

iv. Restrictions requested

27. Based on the above, the Prosecution submits that the following additional contact restrictions are both necessary and proportionate to ensure the integrity of the proceedings, the

⁷⁹ *Ibid.*

⁸⁰ See Dutch Ministry of Justice Website Article on the EBI at Annex 1, p. 33; Dutch Ministry of Justice Weblog Post on AITs at Annex 1, pp. 15-16.

⁸¹ See [REDACTED].

⁸² Article 6 of Dutch Regulation on Selection, Placement and Transfer of Detainees at Annex 1, p. 51. See also a summary at Dutch Ministry of Justice Website Article on the EBI at Annex 1, p. 33.

⁸³ See *El Hishri* Arrest Warrant, para. 94; *El Hishri* Arrest Warrant Application, para. 3.

⁸⁴ See para. 20 above.

⁸⁵ See para. 21 above.

⁸⁶ See para. 21 above.

⁸⁷ See paras. 6-8 above and First Request for Contact Restrictions, para. 26.

⁸⁸ See *El Hishri* Arrest Warrant, paras. 35, 43, 53, 59, 66, 95-97; *El Hishri* Arrest Warrant Application, paras. 68-85.

security of victims and witnesses as well as their families, and to prevent the unauthorised sharing of confidential material. It respectfully requests the Chamber to order the Registry to:

- a. Prohibit any and all case- and/or evidence-related communications of Mr EL HISHRI with his co-detainees;
- b. Limit any and all of Mr EL HISHRI's communications with his co-detainees to a language 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. Actively monitor his communications and contact with his co-detainees, in particular detainees who are Arabic speaking and/or detainees with risk profiles identified in paragraph 21 above.

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

- a. Limit the duration of Mr EL HISHRI's interactions with his co-detainees as necessary to enable active monitoring outlined above;
- b. Immediately end conversations when restrictions are believed to be violated;
- c. Intercept and confiscate correspondence when restrictions are believed to be violated;
- d. Immediately inform the Chamber and the Prosecution whenever restrictions are not respected.

29. If the Registry considers these measures infeasible under the current set-up, the Chamber should order the Registry to make necessary adjustments. Any associated costs must be weighed against the far greater expense of witness interference by detainees. As Trial Chamber VI noted in *Ntaganda*, such conduct "has resulted in extensive litigation, and has entailed the expenditure of significant resources."⁸⁹ In addition to the devastating impact on the life of victims and witnesses and that of their family members, witness interference has significant financial implications for the Court, and profound implications to investigations and prosecutions. Intimidated witnesses can refuse to testify, recant truthful testimony, or express serious doubts about testifying that causes uncertainty in the proceedings, and the intervention of the Victims and Witnesses Unit and of the judges. These costs far exceed those of implementing an effective

⁸⁹ ICC-01/04-02/06-2236-Red, para. 20.

communication regime, which would protect the integrity of proceedings while respecting detainees' rights.

D. CONCLUSION AND RELIEF SOUGHT

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



Nazhat Shameem Khan
Deputy Prosecutor

Dated this 10th day of March 2026

At The Hague, The Netherlands