



Original: English

No. ICC-01/11-01/25

Date: 13 March 2026

Date of the original: 23 December 2025

PRE-TRIAL CHAMBER I

Before:

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

SITUATION IN LIBYA

THE PROSECUTOR V. KHALED MOHAMED ALI EL HISHRI

Public redacted version of

Decision on the Prosecution's application under regulation 35 to extend the disclosure
deadline for the arrest warrant materials of 32 witnesses

Decision 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

Mr Osvaldo Zavala Giler

☐ **Counsel Support Section**

☒ **Victims and Witnesses Unit**

☐ **Detention Section**

☐ **Victims Participation
and Reparations Section**

☐ **Other**

PRE-TRIAL CHAMBER I (the ‘Chamber’) of the International Criminal Court (the ‘Court’) issues this decision on the Prosecution’s application under regulation 35 of the Regulations of the Court (the ‘Regulations’) to extend the disclosure deadline for the arrest warrant materials of 32 witnesses (the ‘Application’).¹

1. On 2 December 2025, pursuant to a warrant of arrest issued by the Chamber on 10 July 2025,² Mr Khaled Mohamed Ali El Hishri (‘Mr El Hishri’) was surrendered to the Court, and he made his first appearance before the Chamber on 3 December 2025.

2. During this hearing on 3 December 2025, the Chamber ordered the Prosecution to disclose the materials underlying the Warrant of Arrest (the ‘Arrest Warrant Materials’) by 11 December 2025.³

3. On 10 December 2025, the Chamber suspended the deadline set for 11 December 2025 with respect to the disclosure of material covered by the Prosecution’s abovementioned Application, ordered the Prosecution to file a confidential redacted version of the Application, and instructed the Defence to provide any response within 3 working days of notification of its confidential redacted version.⁴

4. On 11 December 2025, the Prosecution filed the confidential redacted version of the Application⁵ and, on 16 December 2025, the Defence filed its response to the Application (the ‘Response’).⁶

5. In its Application, the Prosecution requests the Chamber to extend the disclosure deadline for the material relating to 32 Prosecution witnesses cited in the Warrant of Arrest.⁷ The Prosecution submits that it ‘assesses that the immediate disclosure of their identities would give rise to an objective risk to their safety’.⁸ It supports its assertion by referring to ‘the fluidity of the situation’ insofar as ‘the security profile and circumstances of the Prosecution witnesses can change unexpectedly and at short notice’.⁹ The Prosecution submits that even if the court

¹ Prosecution’s application under regulation 35 of the Regulations of the Court to extend the disclosure deadline for the arrest warrant materials of 32 witnesses, 8 December 2025, ICC-01/11-01/25-35-Conf-Exp (corrected version filed on 9 December 2025), with Annexes 1-15.

² Warrant of Arrest for Mr Khaled M Mohamed Ali El Hishri, 10 July 2025, ICC-01/11-188.

³ Transcript of First Appearance hearing, ICC-1/11-01/25-T-001-ENG ET, p. 8.

⁴ Email from the Chamber on 10 December 2025 at 14:25.

⁵ ICC-01/11-01/25-35-Conf-Exp-Corr-Red.

⁶ Defence response to Prosecution’s application under regulation 35 of the Regulations of the Court to extend the disclosure deadline for the arrest warrant materials of 32 witnesses, ICC-01/11-01/25-42-Conf.

⁷ Application, para. 1.

⁸ Application, para. 7.

⁹ Application, para. 10.

order limiting communication is confirmed, disclosing the identity of the Prosecution witnesses to Mr El Hishri poses a risk in that they will become known to SDF/RADA.¹⁰ Furthermore, the Prosecution draws the Chamber's attention to the capability of the SDF/RADA to intimidate and/ or interfere with Prosecution witnesses [REDACTED],¹¹ cites some incidents of such intimidation,¹² and maintains that members of the SDF/RADA remain motivated to intimidate/interfere with the Prosecution witnesses.¹³

6. The Prosecution proposes to conduct the disclosure of the material in relation to 15 of the 32 witnesses in phases, an approach supported by VWS,¹⁴ which is to be completed by 5 February 2026.¹⁵ The Prosecution submits that a phased disclosure is reasonable, necessary and justified given the security and threat environment as explained in the Application.¹⁶ In relation to the remaining 17 witnesses, the Prosecution submits that 'disclosure of their identities at this stage would give rise to a heightened objective risk to their safety and to their psychological well-being, dignity and privacy, [REDACTED]'.¹⁷ Therefore, the Prosecution requests a reasonable extension of the disclosure deadline to enable it to complete its assessments in relation to the 17 witnesses and to file, by 26 January 2026, any necessary non-disclosure requests; and for the Chamber to rule on such requests thereafter.¹⁸

7. In its response, the Defence opposes the Application and submits that the Prosecution had 'five months to prepare for the prompt disclosure of the 32 Witnesses after Mr El Hishri's inevitable transfer to the custody of the Court'.¹⁹ The Defence submits that it is prejudiced by the *ex parte* classification of important information relied upon in the Application and is unable to adequately respond to the factors upon which the Application is based because the Application is 'heavily redacted'.²⁰ In the view of the Defence, the Prosecution does not show good cause justifying the extension of time sought because it has always known that its witnesses are vulnerable and will require protection.²¹ The Defence finds the phased disclosure approach of the material relating to the 15 witnesses unnecessary because no evidence of

¹⁰ Application, para. 14.

¹¹ Application, paras 15-21.

¹² Application, para. 22.

¹³ Application, paras 25-27.

¹⁴ Application, para. 1.

¹⁵ Application, para. 8.

¹⁶ Application, paras 31-33.

¹⁷ Application, para. 35.

¹⁸ Application, para. 36.

¹⁹ Response, para. 2.

²⁰ Response, paras 15-18.

²¹ Response, paras 22-23.

threats to the witnesses has been provided to the Defence by the Prosecution.²² Further, the Defence submits that granting the extension as requested will result in ‘the abridgment of the time the Defence will have to prepare for the confirmation of charges hearing’.²³ Regarding the deadline sought for the filing of requests for non-disclosure of certain material, the Defence maintains that the Prosecution’s related assessments should have been conducted much earlier and the requests for non-disclosure should have already been filed had the Prosecution been acting consciously and diligently.²⁴

8. From the outset, the Chamber notes the assertions by the Defence regarding the undue prejudice resulting from the redactions applied to the version of the Application available to it. Having reviewed the redactions, the Chamber found that the information redacted is particularly sensitive and unnecessary disclosure and dissemination thereof, at this stage, and notably to the Defence, risks compromising the safety of witnesses and related investigative and protection operations. The Chamber further finds that the information provided in the confidential redacted version of the Application contains sufficient facts and details for the Defence to adequately respond to it. The Chamber accordingly confirms the necessity of the redactions applied and finds that no undue prejudice arises.

9. The Chamber finds the Prosecution’s submissions on the need for a staggered disclosure convincing and is satisfied that, in the present circumstances, it appears in fact as the only approach which could mitigate existing risks in a way compatible with the Court’s obligation to ensure the protection and the safety of witnesses and members of their family. The Chamber notes that relevant concerns, including as regard the timeline, can be discussed further at the next status conference. The Chamber confirms that it will continue monitoring and adjusting the current timeline, as necessary, to ensure the Defence has sufficient time to prepare for the confirmation of charges hearing.

10. In sum, the Chamber considers that good cause is shown, within the meaning of regulation 35 of the Regulations, and grants the extension of time sought for disclosure of the relevant material. Accordingly, disclosure of the Arrest Warrant Materials related to the 15 witnesses should be effected as per Annex 2 of the Application. Furthermore, the Chamber also hereby sets the time limit for the filing of non-disclosure requests for Arrest Warrant Material to no later than 26 January 2026. The Prosecution is encouraged to file these

²² Response, para. 24.

²³ Response, para. 24.

²⁴ Response, para. 24.

applications at the earliest opportunity and on a rolling basis and is further instructed to disclose, simultaneously to the filing of any such requests, the relevant witness material in its proposed redacted (or summary) format.

FOR THESE REASONS, THE CHAMBER HEREBY

GRANTS the Application;

EXTENDS the time limit for the disclosure, in phase, of the Arrest Warrant Materials related to the 15 witnesses, as indicated in Annex 2 of the Application; and

SETS the deadline for any request for non-disclosure of witnesses' identity to 26 January 2026.

Done in English. A French translation will follow. The English version remains authoritative.



Judge Iulia Antoanella Motoc, Presiding



**Judge Reine Adélaïde Sophie Alapini-
Gansou**



Judge María del Socorro Flores Liera

Dated this Friday, 13 March 2026

At The Hague, The Netherlands