

**Cour
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**International
Criminal
Court**

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Date: 13 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

Ex parte only available to the Prosecution and the Victims and Witnesses Unit

With confidential *ex parte* only available to the Prosecution and Victims and
Witnesses Unit Annexes 1-3

**Public Redacted Version of "Prosecution's request for authorisation to submit
anonymous summaries of P-0337, P-0339, P-0347, P-0442, P-0685, P-0706, P-0713, P-
0764, P-0767 and P-1059's relevant evidence" ICC-01/11-01/25-81-Conf-Exp, 10
March 2026**

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 materials underlying the Warrant of Arrest for Mr EL HISHRI (“the Arrest Warrant materials”).¹ An extension of the disclosure deadline for the Arrest Warrant materials was granted by the Chamber on 23 December 2025.² Accordingly, the disclosure of the Arrest Warrant materials was completed by 26 January 2026 and included three requests to withhold the identity of witnesses at the current stage of the proceedings (“Prosecution Requests to withhold the identity of 17 witnesses”).³ On 20 February 2026, the Prosecution Requests to withhold the identity of 17 witnesses were granted.⁴

2. On 28 January 2026, during the first Status Conference, the Chamber ordered the Prosecution to disclose by 19 March all materials upon which it intends to rely during the Confirmation of Charges.⁵ This includes, *inter alia*, materials cited in the Prosecution’s application under article 58 for a warrant of arrest against Mr EL HISHRI (“Arrest Warrant application”) and other materials from the Prosecution’s evidence collection, in addition to the Arrest Warrant materials.

3. In furtherance of this order, the Prosecution seeks the authorisation to submit anonymous summaries of the relevant parts of the evidence provided by 10 Prosecution witnesses (the ten Witnesses), namely LBY-OTP-P-0337 (“P-0337”), LBY-OTP-P-0339 (“P-0339”), LBY-OTP-P-0347 (“P-0347”), LBY-OTP-P-0442 (“P-0442”), LBY-OTP-P-0685 (“P-0685”), LBY-OTP-P-0706 (“P-0706”), LBY-OTP-P-0713 (“P-0713”), LBY-OTP-P-0764 (“P-0764”), LBY-OTP-P-0767 (“P-0767”) and LBY-OTP-P-1059 (“P-1059”), thereby withholding their identity, identifying information and materials at this stage of the procedure, 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.

4. Disclosing the identity and cooperation of the ten Witnesses may gravely endanger them or their respective families. The disclosure of anonymous summaries is the only effective

¹ ICC-1-11-01-25-T-001-ENG, p. 8, ll 1-3 (“Chamber’s Order”); ICC-01/11-188 (“Warrant of Arrest”).

² ICC-01/11-01/25-46-Conf, para. 10 and p. 7.

³ ICC-01/11-01/25-55-Conf-Exp (“First request for non-disclosure of identity”), ICC-01/11-01/25-58-Conf-Exp (“Second request for non-disclosure of identity”) and ICC-01/11-01/25-59-Conf-Exp (“Third request for non-disclosure of identity”).

⁴ ICC-01/11-01/25-69-Conf-Exp (“Decision on non-disclosure of identity”).

⁵ ICC-01/11-01/25-T-002-CONF-ENG at p. 0013, lines 20-22.

measure to mitigate such risks. It strikes the appropriate balance between the obligation to safeguard the safety of witnesses and the preservation of Mr EL HISHRI's rights considering the threat exposure faced by the witnesses and their family members, the limited proportion of their evidence relevant to the current case and its circumscribed subject matter which mostly relates to the on-going armed conflict in Libya that arose from the 2011 revolution.

B. CONFIDENTIALITY SUBMISSIONS

5. This request and its annexes 1-3 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.

6. The Prosecution will file confidential and public redacted versions of the present request as soon as practicable.

C. SUBMISSIONS

7. 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.

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

- a) there is an objectively justifiable risk to the safety of the person concerned which arises from disclosing the information to the Defence;
- 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.⁶

⁶ Decision on non-disclosure of identity at para. 16. *See also e.g.* ICC-01/04-01/07-475, paras. 71-73; ICC-01/04-01/06-773, para. 33-34; 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.

9. In addition, reliance on summaries is permissible at this stage of the proceedings “[w]here the disclosure of evidence or information [...] may lead to the grave endangerment of the security of a witness or his or her family”. Articles 61(5) and 68(5) expressly provide for the use of summaries as a witness protection measure⁷ and appellate jurisprudence confirms that their use while withholding the identity of the witness “is not *per se* prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial” at this stage of the proceedings.⁸

1. Overview of the ten Witnesses and their evidence

10. The Prosecution seeks authorization to disclose an anonymous summary of the 10 Prosecution witnesses, thereby withholding their identity, including any identifying information, as well as their materials. The witnesses were cited in the Arrest Warrant Application with the exception of P-1059 whose relevant evidence will nevertheless be relied upon by the Prosecution during the confirmation proceedings.

11. The crux of their evidence relates [REDACTED] and their statements deal almost exclusively with crimes of limited to no relevance to the EL HISHRI case. The portion of their respective materials relevant to the EL HISHRI case mostly pertains to the on-going armed conflict which arose from the 2011 revolution and continues to this day. Their evidence is summarized as follows:

- a. P-0337 [REDACTED]. [REDACTED].⁹ While P-0337 [REDACTED], he also provides information pertaining to the hostilities and instability that arose from the 2011 revolution and the political fracture, including an attack on Tripoli named Operation Flood of Dignity and others armed clashes. In addition, P-0337 discusses the impact of the armed conflict and provides information about the Al-Madakhilah Islamic school of thought,¹⁰ to which SDF/RADA senior members reportedly subscribe.
- b. P-0339 [REDACTED].¹¹ [REDACTED], P-0339’s overview of the armed conflict and killings following the 2011 revolution and the information he provides on the hostilities that took place during Operation Flood of Dignity are of relevance to the case against Mr EL HISHRI.¹²

⁷ See Articles 61(5) and 68 (5).

⁸ ICC-01/04-01/06-773, paras 50-51. See also paras. 40-46 as well as ICC-01/04-01/06-1980-Anx2, para. 42; ICC-02/11-01/11-74-Red, para. 35; ICC-01/12-01/18-122-Red2-tENG, paras 30-33.

⁹ Annex 2, pp. 2-3.

¹⁰ Annex 2, pp. 2; LBY-OTP-03214710.

¹¹ Annex 2, p.5.

¹² Annex 2, p.5; LBY-OTP-03214712.

- c. P-0347 [REDACTED].¹³ Following a complaint he made regarding his own detention by a militia, a portion of which took place at [REDACTED], P-0347 provides information on the Attorney General's admitted incapacity to investigate crimes committed by militias in Tripoli and their non-compliance with formal authorisations to release prisoners.¹⁴
- d. P-0442 [REDACTED].¹⁵ [REDACTED], P-0442 provides evidence on the inability of the Libyan judiciary to prosecute crimes within the jurisdiction of the ICC and discusses civil society attempts to pressure SDF/RADA to release detainees held without due process or in violation of the Attorney General's orders.¹⁶
- e. P-0685 [REDACTED] who provides [REDACTED], namely his detention and torture [REDACTED].¹⁷ He is solely relied upon in the current case for his assertion that [REDACTED].¹⁸
- f. P-0706 [REDACTED].¹⁹ The parts of his evidence relevant to the current case focus on information regarding armed clashes between various groups, [REDACTED] involvement in the military Operation Flood of Dignity and [REDACTED].²⁰
- g. P-0713 [REDACTED]. [REDACTED] was detained and tortured [REDACTED].²¹ The sole relevance of his evidence for the case against Mr EL HISHRI is the information that he provides regarding the armed conflict in 2018-2020, [REDACTED] and the impact of the war on civilians.²²
- h. P-0764 [REDACTED]. He was detained and tortured [REDACTED].²³ The narrow portion of his evidence relevant to the present case pertains to armed clashes in 2019 during Operation Flood of Dignity [REDACTED].²⁴
- i. P-0767 [REDACTED]. [REDACTED].²⁵ The portion of his evidence which will be relied upon by the Prosecution is the general mention of an open conflict in Tripoli in

¹³ Annex 2, p. 8.

¹⁴ LBY-OTP-02843571.

¹⁵ Annex 2, p. 11.

¹⁶ Annex 2, p. 11-12; LBY-OTP-02843567.

¹⁷ Annex 2, p. 14.

¹⁸ LBY-OTP-02823522.

¹⁹ Annex 2, p. 17.

²⁰ LBY-OTP-02856209.

²¹ Annex 2, p. 20.

²² LBY-OTP-02843570.

²³ Annex 2, p. 22.

²⁴ LBY-OTP-03214667.

²⁵ Annex 2, pp. 25-26.

April 2019 leading to the deterioration of the security situation in Libya and a period of serious violence with widespread impact.²⁶

- j. P-1059 [REDACTED]. [REDACTED].²⁷ He [REDACTED] provides information about the revolution, the various armed groups that were active during and after the revolution, the continuing armed clashes between these groups as well as post-revolution state-building efforts and the main prisons in Libya. He specifically provides information on the evolution and authority of SDF/RADA, its important members as well as the functioning of Mitiga Prison.²⁸

2. Disclosure of the identity of the ten Witnesses may lead to their grave endangerment or that of their families, therefore presenting objectively justifiable risks to their safety

12. The ten witnesses and their families would be gravely endangered by the disclosure of their identity and materials to the Defence at this stage of the proceedings. Therefore, objectively justifiable risks to the safety of the ten Witnesses and their families would arise. In its Decision on the Prosecution's requests to authorise the non-disclosure of the identity and identifying information of 17 witnesses ("Decision on non-disclosure of identity"), the Chamber found that such risks are to be assessed on a case-by-case basis,²⁹ taking into consideration the following factors: (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).³⁰

²⁶ LBY-OTP-02991591.

²⁷ Annex 2, p. 28.

²⁸ LBY-OTP-03218972.

²⁹ Decision on non-disclosure of identity, para 18, citing with approbation ICC-01/04-01/06-568, paras 1, 36, 39 and ICC-01/04-02/06-117-Red3, para. 34.

³⁰ Decision on non-disclosure of identity, para 17. *See also 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.

- a. *The ten Witnesses or their family members [REDACTED] are at risk of being targeted [REDACTED] and therefore would face a grave endangerment and an objectively justifiable risk of physical harm and intimidation*

13. Disclosing the identity of the ten Witnesses would create an objectively justifiable risk to their safety and that of their family members considering SDF/RADA's capacity and motivation to interfere with and intimidate witnesses, [REDACTED], as well as their history of doing so, [REDACTED]. SDF/RADA has an established practice of detaining or victimising family members to coerce or punish individuals. [REDACTED]. Lastly, due to the personal circumstances and [REDACTED] as well as the nature of the evidence that they provide, [REDACTED], resulting in increased risks to their physical safety as evidenced by reported threats and acts of violence [REDACTED]. As any identity disclosed to Mr EL HISHRI is at risk of becoming known to SDF/RADA, disclosing their identity or a redacted version of their materials at this stage would result in their grave endangerment, thereby creating an objectively justifiable risk of physical harm and intimidation.

14. The volatility and frequency of armed clashes is such that witnesses and their families [REDACTED] of risk which would further increase if their cooperation became known to threat actors.³¹ [REDACTED]. Witnesses and/or at least one of their respective family members have been deemed to be at [REDACTED] risk of physical harm and intimidation should the identity of the Witnesses be disclosed to SDF/RADA,³² with the exception of P-0347 whose risk is assessed as [REDACTED].³³ [REDACTED]. [REDACTED].³⁴

15. As set out in detail in the Prosecution's Regulation 35 Application and the Prosecution Requests to withhold the identity of 17 witnesses, Mr EL HISHRI, his associates and SDF/RADA have both the capacity to interfere with and intimidate witnesses, [REDACTED],³⁵ as well as a history of intimidating victims and witnesses, concealing crimes and violating judicial orders.³⁶ In addition, both SDF/RADA and its senior members—in particular Mr EL

³¹ [REDACTED].

³² Annex 2, pp. 3, 12, 15, 19, 21, 23, 26-27.

³³ Annex 2, p. 10.

³⁴ Annex 2, p. 6 and 30.

³⁵ ICC-01/11/01/25-35-Conf-Exp-Corr ("Regulation 35 Application"), paras. 15-21; First request for non-disclosure of identity, paras. 10-13, 15; Second request for non-disclosure of identity, paras. 21-22; Third request for non-disclosure of identity, paras. 13 and 16.

³⁶ Regulation 35 Application, paras. 22-24; First request for non-disclosure of identity, paras. 10-13, 15; Second request for non-disclosure of identity, paras. 21-22; Third request for non-disclosure of identity, paras. 13, 16.

HISHRI [REDACTED]—are motivated to intimidate or otherwise interfere with Prosecution witnesses in this case , [REDACTED].³⁷ [REDACTED].³⁸ [REDACTED].³⁹

16. [REDACTED], further underscoring the risks to those perceived as (potential) Prosecution witnesses. [REDACTED]. [REDACTED].⁴⁰ [REDACTED].⁴¹ [REDACTED].⁴² [REDACTED].⁴³ [REDACTED].⁴⁴ [REDACTED].⁴⁵ [REDACTED].⁴⁶ [REDACTED] further highlights SDF/RADA’s [REDACTED] campaign of intimidation against former detainees.

17. [REDACTED]. SDF/RADA not only has the ability to identify, track, and target the ten Witnesses [REDACTED] but also to target or approach their family members, in order to intimidate them, or otherwise interfere with their evidence.⁴⁷ [REDACTED] SDF/RADA’s practice of detaining or victimising family members, [REDACTED], of individuals whom they are unable to locate or reach, in order to coerce the targeted individual into compliance.⁴⁸

18. As outlined in the Prosecution Requests to withhold the identity of 17 witnesses and the Prosecution’s request to withhold certain annexes, [REDACTED].⁴⁹ [REDACTED].⁵⁰ [REDACTED].

19. [REDACTED], indicates that SDF/RADA is [REDACTED] perceived Prosecution witnesses and acting with violence against people with a profile similar to ICC witnesses.⁵¹ [REDACTED].

20. The peculiarity of the ten Witnesses requiring the disclosure of their evidence in anonymous summary form also stems [REDACTED].⁵² [REDACTED]. [REDACTED].⁵³

³⁷ Regulation 35 Application, paras. 25-27; First request for non-disclosure of identity, paras. 13 and 15; Second request for non-disclosure of identity, paras. 21-22; and Third request for non-disclosure of identity, paras. 14 and 16. See also ICC-01/11-01/25-76-Conf-Exp (“Request to withhold certain materials”), paras. 22-24.

³⁸ Annex 3, pp. 3-6.

³⁹ Annex 3, p. 5.

⁴⁰ Annex 3, p. 2.

⁴¹ Annex 3, 2.

⁴² Annex 3, 2.

⁴³ [REDACTED].

⁴⁴ [REDACTED].

⁴⁵ [REDACTED].

⁴⁶ [REDACTED].

⁴⁷ Regulation 35 Application, para. 20.

⁴⁸ Regulation 35 Application, para. 20. *See also* [REDACTED].

⁴⁹ Third request for non-disclosure of identity, paras. 17 and 20. Request to withhold certain materials, para. 17. *See also* Regulation 35 Application, para. 21.

⁵⁰ Request to withhold certain materials, para. 17.

⁵¹ Regulation 35 Application, para. 27.

⁵² [REDACTED].

⁵³ [REDACTED].

[REDACTED]. [REDACTED], exacerbates the jeopardy of the ten Witnesses by [REDACTED].⁵⁴

21. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].⁵⁵ [REDACTED]. [REDACTED].⁵⁶ [REDACTED].⁵⁷ [REDACTED].⁵⁸ [REDACTED].⁵⁹ [REDACTED].⁶⁰ [REDACTED].⁶¹ [REDACTED].⁶²

22. [REDACTED], they remain at risk of being targeted directly or indirectly should their cooperation with the ICC become known to SDF/RADA. [REDACTED]. [REDACTED].⁶³ [REDACTED].⁶⁴ [REDACTED].⁶⁵

23. [REDACTED]. [REDACTED].⁶⁶ [REDACTED].⁶⁷ [REDACTED].⁶⁸ [REDACTED].⁶⁹ [REDACTED].⁷⁰

24. The contextual nature of the evidence that they provide against SDF/RADA will not decrease the intent of the group to interfere with their evidence. If known, their mere status as ICC witnesses would put them at risk. [REDACTED].⁷¹

25. Lastly, despite [REDACTED],⁷² 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*,⁷³ there remains an inherent risk that if the materials and identity of Prosecution witnesses are disclosed to Mr EL HISHRI, they would become known to

⁵⁴ [REDACTED].

⁵⁵ Annex 2, pp. 2-3.

⁵⁶ Annex 2, pp. 15, 17-18, 22-23.

⁵⁷ Annex 2, pp.14-16, 20-21, 25-27.

⁵⁸ Annex 2, p. 14-14.

⁵⁹ Annex 2, p. 25.

⁶⁰ Annex 2, p. 8.

⁶¹ Annex 2, p. 11-12.

⁶² Annex 2, p. 11-12.

⁶³ Annex 2, pp. 5-6.

⁶⁴ Annex 2, pp. 28-30.

⁶⁵ Annex 2, pp. 28-30.

⁶⁶ Annex 2, pp. 2-3.

⁶⁷ Annex 2, p. 6.

⁶⁸ Annex 2, pp. 5-6.

⁶⁹ Annex 2, pp. 12, 17-18.

⁷⁰ Annex 2, pp. 17-19.

⁷¹ [REDACTED].

⁷² 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.

⁷³ 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").

SDF/RADA. This risk is amplified by his retained authority over SDF/RADA and his close family ties to the group.⁷⁴ Even with certain interim contact restrictions in place, Mr EL HISHRI maintains contact with family members who are themselves directly in contact or involved with SDF/RADA. Any information shared with such relatives, 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.

b. Disclosure would risk exacerbating psychosocial risks upon disclosure of their identity

26. Disclosure of the identity of the ten Witnesses to the threat actor or the wider community, which cannot be reliably prevented if identities are disclosed to the Defence, would further increase the psychosocial risks of vulnerable witnesses by raising fear of reprisal or stigmatization and may have a severe impact on their mental health [REDACTED].⁷⁵ This risk is compounded by [REDACTED] and SDF/RADA's widely known prior use of public exposure to stigmatise individuals.⁷⁶ P-0685, P-0713, P-0764 and P-0767 are particularly vulnerable as they experienced torture in detention and [REDACTED].⁷⁷ [REDACTED]. [REDACTED].⁷⁸ Therefore, disclosure at this stage [REDACTED] would foreseeably and materially endanger the psychological wellbeing of the Witnesses.

c. Existing protection measures are limited and do not adequately mitigate the risks to the ten Witnesses and their families

27. The protection measures currently available to the ten Witnesses are limited and do not meaningfully reduce the risks to their safety. As set out in the Regulation 35 Application, the Prosecution Requests to withhold the identity of 17 witnesses and [REDACTED].⁷⁹ [REDACTED].

28. As a result, [REDACTED] briefing the ten Witnesses on the importance of maintaining confidentiality [REDACTED], [REDACTED].

29. Briefing the ten Witnesses on confidentiality offers no protection against risks arising from disclosure of their identity. While confidentiality briefings may reduce the chance of

⁷⁴ Regulation 35 Application, paras. 17-19.

⁷⁵ [REDACTED]; Decision on non-disclosure of identity, para. 41,44. *See also e.g.* Annex 2, pp. 34.

⁷⁶ Second request for non-disclosure of identity, paras. 15-16.

⁷⁷ Annex 2, p. 14-15, 21, 22-23, 25-26.

⁷⁸ Annex 2, p. 19.

⁷⁹ Regulation 35 Application, para. 28.

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.

30. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].⁷⁹ [REDACTED].

31. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].

32. Finally, witnesses have taken deliberate steps to reduce their exposure. [REDACTED];⁸⁰ [REDACTED].⁸¹ [REDACTED], [REDACTED].

d. *The ten Witness did not consent to their identity being disclosed*

33. None of the ten witnesses have expressly consented to the disclosure of their identity and many conveyed security concerns while emphasising that their statements mostly pertain to [REDACTED] other than SDF/RADA.⁸² P-0337 stated that [REDACTED]⁸³ while P-1059 stated that anyone cooperating with the ICC against SDF/RADA [REDACTED].⁸⁴ [REDACTED]. [REDACTED].⁸⁵

34. Taken together, the absence of consent of the ten Witnesses underscores 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]; [REDACTED]; the associated psychosocial risks and the limitations of [REDACTED] protection measures, it is clear that disclosure of the identity of the five Witnesses at this stage would expose them and their families to an objectively unacceptable level of risk.

⁸⁰ Annex 2, pp. 17-19.

⁸¹ Annex 2, p. 15, 18.

⁸² Annex 2, pp. 2-3, 6, 9, 15, 18, 26

⁸³ Annex 2, pp. 2-3.

⁸⁴ Annex 2, p. 29.

⁸⁵ Decision on non-disclosure of identity, para 36.

3. Disclosing an anonymous summary is necessary to reduce the risk and is the least intrusive measure available

35. Due to the severity and immediacy of the endangerment that the ten Witnesses may face if their cooperation with the ICC becomes known, it is necessary to disclose anonymous summaries of the relevant parts of their evidence to the Defence at this stage of proceedings.

36. Non-disclosure of identity is necessary where no alternative measure short of anonymity can adequately safeguard the witnesses. [REDACTED].⁸⁶ 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.⁸⁷ 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.”⁸⁸

37. In the present case, disclosure of anonymous summaries is necessary as [REDACTED]. [REDACTED]⁸⁹ [REDACTED].⁹⁰ This entails that any inadvertent or illicit disclosure of the identity of Prosecution witnesses—in particular to SDF/RADA, could trigger immediate consequences, [REDACTED]. [REDACTED] also compounds the difficulty to implement adequate protection measures.

38. [REDACTED]. [REDACTED]. [REDACTED]. The disclosure of their redacted materials would thus unduly increase their jeopardy and that of third parties mentioned in their statements without providing information of significant additional relevance at this stage of the procedure.

39. In addition, non-disclosure of the Witnesses’ identity is necessary and the least intrusive means to protect them from identified psychosocial risks.⁹¹ As set out above, disclosure would foreseeably and materially endanger their psychological well-being. In these circumstances,

⁸⁶ [REDACTED].

⁸⁷ ICC-01/12-01/15-61, para. 8. *See also* ICC-01/12-01/18-174-tENG-Red, para. 31.

⁸⁸ ICC-01/04-01/07-476, para. 49.

⁸⁹ [REDACTED].

⁹⁰ [REDACTED].

⁹¹ Third request for non-disclosure of identity, para. 41.

anonymity is the only effective protective measure to avert predictable psychological harm and preserve the Witnesses' ability to cooperate safely.

40. Lastly, effecting disclosure of identity or redacted materials only to the Defence, with the exclusion of Mr EL HISHRI himself, is not an available option at this stage of the proceedings considering the grave endangerment that the witness would suffer in case of any inadvertent disclosure. The inherent risks are particularly acute considering SDF/RADA's influence and power permeating all level of the Libyan society, their reported ability to [REDACTED],⁹² [REDACTED]⁹³ [REDACTED],⁹⁴ such that even the professionalism of the Defence cannot confer sufficient security guarantees to the witnesses at this stage of the proceedings.

41. Accordingly, the disclosure of anonymous summaries is the only practical measure capable of averting the grave endangerment of the witnesses. It remains the least intrusive option available to meaningfully protect the ten Witnesses and their families and is commensurate with SDF/RADA's capability and demonstrated practice of interfering with anyone it sees as undermining its own interest.

4. Disclosing an anonymous summary is proportionate considering that only a narrow and circumscribed portion of the evidence of the ten Witnesses is relevant

42. Mr EL HISHRI will not be unduly prejudiced by the disclosure of anonymous summaries of the ten Witnesses' statements and relevant annexes given the scope of confirmation proceedings, the limited proportion of their evidence relevant to the case against Mr EL HISHRI and their subject matter, as well as the [REDACTED] the risks that they would face by disclosing information regarding [REDACTED].

43. The circumscribed relevance of their evidence is illustrated by the conciseness of the summaries. The crux of the evidence provided by the ten Witnesses [REDACTED] and only a sliver of their evidence is relevant to the case against Mr EL HISHRI. This is illustrated by the length of the summaries themselves. Despite containing all parts of their evidence relevant to the current case, including any evidence the Prosecution intends to rely upon during the confirmation proceedings and any information that would be exculpatory in nature or otherwise relevant to the preparation of the defence, most summaries range between 1 and 2 pages. Considering the volume of each witness materials, ranging from 28 and 105 pages for

⁹² [REDACTED].

⁹³ [REDACTED].

⁹⁴ [REDACTED].

statements alone, disclosing the information contained in the remainder of the materials would unduly expose third parties, increase the risks that the witness be identified despite identity redactions, and [REDACTED], thereby unnecessarily increasing the severity of their endangerment. [REDACTED]. [REDACTED]. [REDACTED].

44. Importantly, the subject-matter of the relevant part of the evidence provided by the ten Witnesses is such that the disclosure of their full statements and associated materials, even redacted, would not be proportional to the grave endangerment to which it would expose them. None of the information provided by the Witnesses pertain to Mr EL HISHRI's acts and conduct. While the summaries contain all relevant information to the present case, eight of them do not mention SDF/RADA nor its members and P-0442 only provides general information on attempts of the civil society to pressure SDF/RADA to release detainees. The anonymous witness summaries are mostly relied upon to demonstrate the existence of the continuous non-international armed conflict in Libya since the 2011 revolution.

45. In addition to such contextual evidence and as detailed in the overview of his evidence, [REDACTED]. [REDACTED] heavy redactions to his materials would not preserve his anonymity. Such heavy redactions would also impact the readability of the statement. [REDACTED], disclosing his identity or an anonymous redacted version of his statement and materials would not strike a suitable balance between the rights of the Defence, the on-going security concerns and his relevance to the case recognizing that the stage of the proceedings is a key factor to consider in balancing the interest of the victims and witnesses with that of the defence.⁹⁵

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 propensity to target former detainees, coupled with Mr EL HISHRI and SDF/RADA's history of doing so through the use extreme violence and killings as evidenced by the [REDACTED] security incidents reported to the Prosecution, [REDACTED], and the limitations of [REDACTED] protection measures, any disclosure may gravely endanger the Witnesses [REDACTED] by exposing them to immediate and irreversible harm. In this context, the proposed disclosure of anonymous summaries represents a proportionate response at this stage of the proceedings.

⁹⁵ ICC-01/12-01/18-586, paras. 9-10.

D. CONCLUSION/RELIEF SOUGHT

47. For the foregoing reasons, the Prosecution respectfully requests the Chamber to authorise the disclosure of anonymous summaries of the relevant portion of the evidence provided by the ten Witnesses, thereby withholding their identity, any identifying information as well as their statement and associated materials at this stage of the proceedings.

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 13th day of March 2026

At The Hague, The Netherlands