

**Cour  
Pénale  
Internationale**

**International  
Criminal  
Court**



*Original: English*

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

**Date: 30 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 *ex parte* only available to the Prosecution and Victims and  
Witnesses Unit Annexes 1-4**

**Public redacted version of “Prosecution’s request for authorisation to withhold the  
identity of witnesses P-1673, P-1682, P-1685, P-1710, P-1720, P-1721, P-1722, and P-  
1764 upon whose evidence the Prosecution will rely at the confirmation hearing”,  
ICC-01/11-01/25-86-Conf-Exp, 13 March 2026**

**Source:** Office of the Prosecutor

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☒ The Office of Public Counsel for Victims

☐ The Office of Public Counsel for the Defence

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## **REGISTRY**

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M. Zavala Giler, Osvaldo

☐ Counsel Support Section

☒ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and  
Reparations Section

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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”).<sup>1</sup> An extension of the disclosure deadline for the Arrest Warrant materials was granted by the Chamber on 23 December 2025.<sup>2</sup> Accordingly, the disclosure of the Arrest Warrant materials was completed by 5 February 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”).<sup>3</sup> On 20 February 2026, the Prosecution Requests to withhold the identity of 17 witnesses were granted.<sup>4</sup>

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 proceedings.<sup>5</sup> In furtherance of this order, the Prosecution requests the Chamber to authorise the non-disclosure of the identity of eight Prosecution witnesses LBY-OTP-P-1673 (“P-1673”), LBY-OTP-P-1682 (“P-1682”), LBY-OTP-P-1685 (“P-1685”), LBY-OTP-P-1710 (“P-1710”), LBY-OTP-P-1720 (“P-1720”), LBY-OTP-P-1721 (“P-1721”), LBY-OTP-P-1722 (“P-1722”), and LBY-OTP-P-1764 (“P-1764”) (the “eight Witnesses”). Specifically, the Prosecution requests authorisation to disclose to the Defence anonymous redacted versions of the statements of witnesses P-1673, P-1685, P-1710, P-1720, P-1721, P-1722, and P-1764 and associated witness materials, to redact the names of these witnesses in the metadata of these materials;<sup>6</sup> and not to disclose certain annexes to their statements and associated witness materials,<sup>7</sup> pursuant to article 68(1) of the Rome Statute (“Statute”), as well as rules 76(4), 81(2) and (4) of the Rules of Procedure and Evidence (“Rules”). In relation to

<sup>1</sup> T-001-ENG, 8:1-8:3 (“Chamber’s Order”); ICC-01/11-188 (“Warrant of Arrest”).

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

<sup>3</sup> T-003-CONF-ENG, 3:13-3:15; ICC-01/11-01/25-55-Conf-Exp (“First Request for Non-Disclosure of Identity”), a confidential redacted version (“CRV”) was filed on 28 January 2026, *see* ICC-01/11-01/25-55-Conf-Red; ICC-01/11-01/25-58-Conf-Exp (“Second Request for Non-Disclosure of Identity”), a CRV was filed on 29 January 2026, *see* ICC-01/11-01/25-58-Conf-Red; ICC-01/11-01/25-59-Conf-Exp (“Third Request for Non-Disclosure of Identity”), a CRV was filed on 29 January 2026, *see* ICC-01/11-01/25-59-Conf-Red.

<sup>4</sup> ICC-01/11-01/25-69-Conf-Exp (“Decision on Non-Disclosure of Identity”), a CRV was filed on 20 February 2026, *see* ICC-01/11-01/25-69-Conf-Red.

<sup>5</sup> T-002-CONF-ENG, 13:20-13:22 (open session).

<sup>6</sup> *See* Annex 1. The materials listed in Annex 1 will be made available to the Chamber electronically with the proposed redactions in transparent form and have already been disclosed to the Defence with the proposed redactions applied. Translations for some of these materials are still pending and will be made available shortly.

<sup>7</sup> *See* Annex 2. The materials listed in Annex 2 will be made available to the Chamber electronically in unredacted form.

witness P-1682, the Prosecution requests to disclose a summary of relevant parts of P-1682's statement as well as excerpts of other documents such as investigations reports and a screening as far as material to the preparation of the Defence of Mr EL HISHRI,<sup>8</sup> to withhold all identifying information pertaining to this witness and not to disclose his witness statements and annexes and other identifying associated witness materials,<sup>9</sup> pursuant to article 68(1), article 68(5) and article 61(5) of the Statute, as well as rule 81(2) and (4) of the Rules.

3. While the Prosecution intends to rely on the evidence of the eight Witnesses at the confirmation hearing, their identity and cooperation cannot safely be disclosed at this stage: [REDACTED] due to SDF/RADA's significant capabilities and demonstrated motivation to intimidate or otherwise interfere with Prosecution witnesses [REDACTED]. In addition, P-1673, P-1685, P-1710, P-1720, P-1722 and P-1764 face [REDACTED] psychosocial risks. Non-disclosure of their identity and identifying information is necessary as no less intrusive measures short of non-disclosure are available and feasible in the circumstances. Furthermore, the proposed measures are proportionate and do not unduly prejudice the Defence at this preliminary stage of the proceedings.

## **B. CONFIDENTIALITY**

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

## **C. SUBMISSIONS**

5. 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.<sup>10</sup>

6. The Court's appellate jurisprudence sets out several criteria relevant to substantiating a

<sup>8</sup> See LBY-OTP-03703580. The summary has been disclosed to the Defence; the Arabic translation will be disclosed by 19 March 2026.

<sup>9</sup> See Annex 2, items 7 and 8.

<sup>10</sup> ICC-01/12-01/18-765-Red, para. 16. See also Decision on Non-Disclosure of Identity, para. 16.

request for non-disclosure of witness identity:<sup>11</sup>

- 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.

### **1. Overview of the eight Witnesses and their evidence**

7. The Prosecution seeks authorisation for the non-disclosure of the identity of witnesses P-1673, P-1682, P-1685, P-1710, P-1720, P-1721, P-1722, and P-1764, whose evidence is summarised as follows:

- a. P-1673 [REDACTED] before he was detained in Mitiga Prison from [REDACTED] to [REDACTED]. He was unlawfully imprisoned and subjected to outrages upon personal dignity, cruel treatment, torture, and other inhumane acts [REDACTED]. The witness was [REDACTED] by Mr EL HISHRI when he arrived at Mitiga Prison. P-1673 also provides evidence on Mr EL HISHRI's role and authority in the prison as well as direct evidence on Mr EL HISHRI beating a detainee with the metal part of a shovel.<sup>12</sup>
- b. P-1682 [REDACTED] was detained by [REDACTED] SDF/RADA [REDACTED]. The witness was detained in Mitiga Prison from [REDACTED] to [REDACTED], where he was beaten and tortured on the orders and with the participation of Mr EL HISHRI. The witness also provides evidence about Mr EL HISHRI's role and authority in Mitiga Prison [REDACTED]. [REDACTED].<sup>13</sup>
- c. P-1685 [REDACTED] was detained in Mitiga Prison from [REDACTED] to [REDACTED]. The witness was unlawfully imprisoned and subjected to abuses, outrages upon personal dignity, cruel treatment, torture, other inhumane acts and [REDACTED]. He was tortured, beaten and shot [REDACTED] by Mr EL HISHRI. P-1685 also provides evidence on Mr EL HISHRI's role and authority in Mitiga Prison as well as direct evidence of Mr EL HISHRI shooting and torturing other detainees.<sup>14</sup>

<sup>11</sup> ICC-01/04-01/07-475, paras. 71-73; ICC-01/04-01/06-773, paras. 33-34. *See also* e.g. ICC-01/12-01/18-765-Red, para. 19; ICC-01/14-01/18-273-Red, para. 26; ICC-01/12-01/18-777-Red, paras. 12-13.

<sup>12</sup> *See* Annex 3, p. 2.

<sup>13</sup> *See* Annex 3, p. 5.

<sup>14</sup> *See* Annex 3, p. 8.

- d. P-1710 [REDACTED] was detained in Mitiga Prison from [REDACTED] to [REDACTED]. He was unlawfully imprisoned and subjected to outrages upon his personal dignity, cruel treatment, torture, enslavement, other inhumane acts [REDACTED]. He was beaten and tortured by Mr EL HISHRI repeatedly, including with a shovel. P-1710 also provides evidence about Mr EL HISHRI's role and authority in Mitiga Prison as well as direct evidence on Mr EL HISHRI torturing other detainees. [REDACTED].<sup>15</sup>
- e. P-1720 [REDACTED] was detained in Mitiga Prison from [REDACTED] to [REDACTED]. He was unlawfully imprisoned and subjected to outrages upon personal dignity, cruel treatment, torture, [REDACTED] and other inhumane acts. Mr EL HISHRI subjected him and other detainees to collective punishment by beating and torturing them. P-1720 [REDACTED] provides evidence on improvements made to the conditions in Mitiga Prison [REDACTED]. P-1720 also provides evidence about Mr EL HISHRI's role and authority in Mitiga Prison as well as on Mr EL HISHRI's direct involvement in the commission of crimes.<sup>16</sup>
- f. P-1721 [REDACTED] and visited Mitiga Prison on several occasions. He provides evidence on the control over Mitiga airport, including by SDF/RADA. He also provides direct evidence on crimes committed by SDF/RADA.<sup>17</sup>
- g. P-1722 [REDACTED] was detained in Mitiga Prison from [REDACTED]. The witness was unlawfully imprisoned and subjected to outrages upon personal dignity, cruel treatment, torture and [REDACTED]. He was tortured and subjected to collective punishment by Mr EL HISHRI alongside other detainees. P-1722 also provides evidence about Mr EL HISHRI's background, his role and authority in Mitiga Prison as well as direct evidence of Mr EL HISHRI committing sexual violence against a female detainee [REDACTED] and beating a detainee [REDACTED], [REDACTED]. [REDACTED].<sup>18</sup>
- h. P-1764 [REDACTED] was detained in Mitiga Prison from [REDACTED] to [REDACTED]. [REDACTED].<sup>19</sup>

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<sup>15</sup> See Annex 3, pp. 11-12.

<sup>16</sup> See Annex 3, pp. 15-16.

<sup>17</sup> See Annex 3, pp. 19-20.

<sup>18</sup> See Annex 3, pp. 22-23.

<sup>19</sup> See Annex 3, pp. 29-30.

## 2. There are objectively justifiable risks arising from the disclosure of the identity of the eight Witnesses

8. There are objectively justifiable risks to the safety of the eight Witnesses and/or their families arising from the disclosure of their identity to Mr EL HISHRI. The danger caused by the disclosure of the witnesses' identity to the Defence must be assessed with regard to each individual witness, taking into account their specific situation: (i) the witness's personal circumstances; (ii) whether there are currently protection or security measures in place for the witness; (iii) the relevant security situation in the area where the witness or their family currently reside; (iv) whether the witness or their family members have received any threats on account of (perceived) involvement with the Court; (v) whether the witness has undertaken any activity to endanger their personal safety; and (vi) whether the witness consented that their identity be disclosed to the Defence (without prejudice to the Chamber's *proprio motu* assessment whether to disclose such identity).<sup>20</sup>

### **(a) P-1673, P-1682, P-1685, P-1710, P-1720, P-1721 as well as [REDACTED] P-1722 and P-1764 [REDACTED] face an objectively justifiable risk of physical harm and intimidation**

9. There is an objectively justifiable risk to the safety of P-1673, P-1682, P-1685, P-1710, P-1720, P-1721 as well as [REDACTED] P-1722 and P-1764 arising from the disclosure of their identity to Mr EL HISHRI because (1) [REDACTED]; (2) Mr EL HISHRI, his associates and SDF/RADA have the capacity and motivation to interfere with and intimidate witnesses, [REDACTED], as well as a history of doing so; (3) any identities disclosed to Mr EL HISHRI are at risk of becoming known to SDF/RADA; (4) [REDACTED]; and (5) SDF/RADA has an established practice of detaining or victimising family members to coerce or punish individuals. In addition, [REDACTED].

10. First, P-1673, P-1682, P-1685, P-1710, P-1720, P-1721 as well as [REDACTED] P-1722 and P-1764 [REDACTED] due to SDF/RADA's significant capabilities and its demonstrated motivation to intimidate or otherwise interfere with Prosecution witnesses [REDACTED],<sup>21</sup> as further detailed below. P-1673, P-1682, P-1710, P-1720, P-1721 [REDACTED].<sup>22</sup> [REDACTED] P-1722 [REDACTED].<sup>23</sup> [REDACTED] P-1721 and [REDACTED] P-1764

<sup>20</sup> See 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.

<sup>21</sup> See Decision on Non-Disclosure of Identity, para. 38.

<sup>22</sup> See Annex 3, pp. 2-3, 5, 7, 11, 13, 15, 17, 19, 21-22, 27 and fn. 2.

<sup>23</sup> See Annex 3, pp. 22, 27 and fn. 2.

[REDACTED].<sup>24</sup> In addition, [REDACTED] P-1722[REDACTED], [REDACTED].<sup>25</sup> P-1685 [REDACTED].<sup>26</sup>

11. The safety risks faced by P-1673, P-1682, P-1685, P-1710, P-1720, P-1721 as well as [REDACTED] P-1722 and P-1764 are further compounded by several factors [REDACTED]. The eight Witnesses [REDACTED].<sup>27</sup> The Witnesses [REDACTED],<sup>28</sup> [REDACTED]. Moreover, [REDACTED].<sup>29</sup> In these circumstances, P-1673, P-1682, P-1685, P-1710, P-1720, P-1721 [REDACTED] have been assessed by the Prosecution’s Security and Protection Unit (“SPU”) to face a [REDACTED] risk of physical harm and intimidation, should their identity become known to SDF/RADA.<sup>30</sup> In addition, P-1722 and P-1764 have been assessed by SPU to face a [REDACTED] risk of intimidation [REDACTED], should their identity become known to SDF/RADA.<sup>31</sup>

12. Second, as set out in detail previously,<sup>32</sup> Mr EL HISHRI, his associates and SDF/RADA have both the capacity to interfere with and intimidate witnesses, [REDACTED], as well as a history of intimidating victims and witnesses, concealing crimes and violating judicial orders. In addition, both SDF/RADA and its senior members—in particular Mr EL HISHRI [REDACTED]—are motivated to intimidate or otherwise interfere with Prosecution witnesses in this case [REDACTED], [REDACTED]. [REDACTED]. [REDACTED].

13. [REDACTED] information received by the Prosecution further underscores this risk. [REDACTED]. [REDACTED].<sup>33</sup> [REDACTED].

14. Third, even [REDACTED],<sup>34</sup> 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*

<sup>24</sup> See Annex 3, pp. 19, 21, 29, 31.

<sup>25</sup> See Annex 3, pp. 22, 27.

<sup>26</sup> See Annex 3, pp. 8-9 and fn. 2.

<sup>27</sup> See Annex 3, pp. 2, 4-5, 7-9, 11-13, 15-17, 20, 22-25, 27, 29-31.

<sup>28</sup> See Annex 3, pp. 2, 4-5, 7-9, 11, 13, 15-17, 20, 22-23, 27, 29-31.

<sup>29</sup> See Annex 3, pp. 2, 4, 6-9, 12-13, 16-17, 26-27.

<sup>30</sup> See Annex 3, pp. 4, 7, 9, 13, 17, 21, 27, 31.

<sup>31</sup> See Annex 3, pp. 27, 31.

<sup>32</sup> ICC-01/11-01/25-35-Conf-Exp-Corr (“Regulation 35 Application”), paras. 15-21, 27, a CRV was filed on 11 December 2025, see ICC-01/11-01/25-35-Conf-Corr-Red; First Request for Non-Disclosure of Identity, paras. 12-13, 15-17; Second Request for Non-Disclosure of Identity, paras. 21-24; Third Request for Non-Disclosure of Identity, paras. 13-14, 16-18; ICC-01/11-01/25-76-Conf-Exp (“Request for Non-Disclosure of Certain Annexes”), paras. 22, 25, a CRV was filed on 11 March 2026, see ICC-01/11-01/25-76-Conf-Exp; ICC-01/11-01/25-81-Conf-Exp (“Request to Submit Anonymous Summaries”), paras. 15-16, a CRV was filed on 12 March 2026, see ICC-01/11-01/25-81-Conf-Red. See also [REDACTED].

<sup>33</sup> See Annex 4, paras. 1-2.

<sup>34</sup> See [REDACTED].

*Party or of a Participant*,<sup>35</sup> there remains at least a risk that if the identities of Prosecution witnesses are disclosed to Mr EL HISHRI, they would become known to SDF/RADA.<sup>36</sup> This risk is amplified by his retained authority over SDF/RADA and his close family ties to the group.<sup>37</sup> Even with [REDACTED], Mr EL HISHRI maintains contact [REDACTED] who are themselves directly involved with SDF/RADA. Any information shared with such [REDACTED], whether deliberately or inadvertently, can easily reach individuals embedded in SDF/RADA who would be a position, and are likely motivated, to act upon it.

15. That this risk is not hypothetical is demonstrated [REDACTED]. As previously described,<sup>38</sup> [REDACTED]. [REDACTED]. [REDACTED].<sup>39</sup> [REDACTED]<sup>40</sup> [REDACTED].<sup>41</sup> [REDACTED].<sup>42</sup> While the existence of a causal link between [REDACTED], this incident highlights the concrete risk that information disclosed to Mr EL HISHRI may be transmitted to SDF/RADA and that SDF/RADA will act upon such information [REDACTED].

16. Fourth, [REDACTED]:

- a. [REDACTED]. [REDACTED].<sup>43</sup>
- b. [REDACTED]. [REDACTED]. [REDACTED],<sup>44</sup> [REDACTED]. [REDACTED].<sup>45</sup>
- c. [REDACTED].<sup>46</sup>
- d. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].<sup>47</sup>

17. [REDACTED].

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<sup>35</sup> See T-001-ENG, 8:13-8:16; 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").

<sup>36</sup> See [REDACTED].

<sup>37</sup> Regulation 35 Application, paras. 17-19.

<sup>38</sup> See Request for Non-Disclosure of Certain Annexes, para. 27; Request to Submit Anonymous Summaries, para. 16.

<sup>39</sup> [REDACTED].

<sup>40</sup> [REDACTED].

<sup>41</sup> [REDACTED].

<sup>42</sup> [REDACTED].

<sup>43</sup> See Annex 3, pp. 2-3.

<sup>44</sup> See Annex 3, p. 6.

<sup>45</sup> See First Request for Non-Disclosure of Identity, para. 16(a); Second Request for Non-Disclosure of Identity, para. 23(b).

<sup>46</sup> See Annex 3, p. 16.

<sup>47</sup> See Annex 3, pp. 23-25. See also First Request for Non-Disclosure of Identity, para. 15; Second Request for Non-Disclosure of Identity, para. 15; Third Request for Non-Disclosure of Identity, para. 16.

18. Fifth, the risk of physical harm and intimidation [REDACTED].<sup>48</sup> As set out before,<sup>49</sup> SDF/RADA not only has the ability to identify, track, and target [REDACTED]. [REDACTED],<sup>50</sup> [REDACTED]. [REDACTED],<sup>51</sup> [REDACTED]. [REDACTED].<sup>52</sup> [REDACTED].<sup>53</sup>

19. Finally, as previously set out<sup>54</sup> and acknowledge by the Chamber,<sup>55</sup> [REDACTED] demonstrates a [REDACTED] threat to witnesses [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED],<sup>56</sup> [REDACTED].

20. Moreover, [REDACTED], [REDACTED]. [REDACTED],<sup>57</sup> [REDACTED].

21. In these circumstances, disclosure of the Witnesses' identity could expose them [REDACTED] to immediate and serious risks of physical harm and intimidation.

***(b) P-1673, P-1685, P-1710, P-1720, P-1722 and P-1764 additionally face objectively justifiable psychosocial risks***

22. In addition to the serious risks of physical harm and intimidation, seven of the eight Witnesses also face an objectively justifiable risk of psychological harm should their identity be disclosed to the Defence.<sup>58</sup> Their psychological vulnerability is rooted in the severity of the crimes they endured at Mitiga Prison—torture, cruel treatment, sexual violence, enslavement, and other inhumane acts—and is compounded by their current exposure to SDF/RADA, [REDACTED], and [REDACTED]. These factors, taken together, establish that disclosure at this stage [REDACTED] would place them at a foreseeable, serious, and unacceptable risk to their psychological well-being.

23. P-1673, P-1685, P-1710, P-1720, P-1722 and P-1764 face [REDACTED] risks to their psychosocial well-being, which would likely increase upon disclosure. All six were subjected to extremely serious abuse during detention, including outrages on personal dignity, torture, cruel treatment, other inhumane acts [REDACTED] by SDF/RADA.<sup>59</sup> P-1673, P-1685, P-1710,

<sup>48</sup> See Decision on Non-Disclosure of Identity, para. 47.

<sup>49</sup> See e.g. Regulation 35 Application, para. 20; First Request for Non-Disclosure of Identity, para. 18; Second Request for Non-Disclosure of Identity, para. 25; Third Request for Non-Disclosure of Identity, para. 19.

<sup>50</sup> LBY-OTP-0074-0889, paras. 214-217; LBY-OTP-0083-0663, para. 143; LBY-OTP-00007275, para. 48.

<sup>51</sup> See above at para. 17(a), (c) and (d).

<sup>52</sup> See above at para. 12.

<sup>53</sup> Annex 3, pp. 9, 17, 20, 26, 30.

<sup>54</sup> Decision on Non-Disclosure of Identity, para. 47.

<sup>55</sup> Regulation 35 Application, para. 21; Third Request for Non-Disclosure of Identity, para. 20; Request to Submit Anonymous Summaries, para. 17.

<sup>56</sup> Annex 3, pp. 27, 31.

<sup>57</sup> See above at para. 14.

<sup>58</sup> See [REDACTED].

<sup>59</sup> Annex 3, pp. 4, 10, 14, 17-18, 27, 31.

P-1722 and P-1764 [REDACTED].<sup>60</sup> [REDACTED].<sup>61</sup> P-1673, P-1685, P-1710, P-1720, P-1722, and P-1764 [REDACTED].<sup>62</sup> P-1722 [REDACTED].<sup>63</sup> P-1673, P-1685, P-1722 and P-1764 [REDACTED].<sup>64</sup> [REDACTED] and disclosure to Mr EL HISHRI would likely further elevate this risk, in particular, [REDACTED].<sup>65</sup>

24. While the Prosecution does not presently assess that P-1682 and P-1721 to be under immediate psychosocial risk, disclosure of the identities of P-1682 and P-1721 would likely elevate their psychosocial risk levels and increase their overall vulnerability. [REDACTED].<sup>66</sup> P-1721 has not reported any psychosocial issues and the Prosecution does not currently possess sufficient information to determine with a reasonable degree of accuracy the current psychosocial risk level for overview witness P-1721.<sup>67</sup> Nevertheless, in both cases, disclosure of the identity of the witnesses would likely elevate their psychosocial risk levels and increase their vulnerability, particularly given their prior victimisation [REDACTED].<sup>68</sup>,

25. As set out in detail previously,<sup>69</sup> SDF/RADA has in the past used public exposure to stigmatise and harm individuals, increasing the risk that disclosure would be weaponised against these witnesses. For instance, [REDACTED]. [REDACTED].<sup>70</sup> [REDACTED],<sup>71</sup> [REDACTED]. [REDACTED]. [REDACTED].<sup>72</sup> These examples demonstrate a readiness to disclose or amplify sensitive information when it serves to punish, intimidate, or discredit perceived opponents. It is therefore likely that SDF/RADA would disclose the identity of Prosecution witnesses to the wider community if it believes it would subject them to stigma, social exclusion, or other negative consequences (such as accusations of immoral conduct, “treachery,” or “collaboration”). This would substantially heighten the psychosocial risks for the eight Witnesses, particularly those already vulnerable to stigma, such as [REDACTED], as well as survivors of sexual violence.

26. In light of the witnesses’ past abuse, current vulnerability, and SDF/RADA’s prior use of

<sup>60</sup> Annex 3, p. 2, 4, 8, 10, 11, 14, 23, 28-31.

<sup>61</sup> Annex 3, pp. 3-4, 9-10, 13-14, 17-18, 26-28, 30-31.

<sup>62</sup> Annex 3, pp. 3-4, 9-10, 13-14, 17-18, 26-28, 30-31.

<sup>63</sup> Annex 3, p. 26.

<sup>64</sup> Annex 3, pp. 3, 9, 26, 30.

<sup>65</sup> Annex 3, pp. 4, 10, 14, 17-18, 27-28, 31.

<sup>66</sup> Annex 3, pp. 6-7.

<sup>67</sup> Annex 3, pp. 20-21.

<sup>68</sup> Annex 3, pp. 7, 20-21.

<sup>69</sup> See e.g. First Request for Non-Disclosure of Identity, para. 23; Second Request for Non-Disclosure of Identity, paras. 15-16; Third Request for Non-Disclosure of Identity, paras. 26-27.

<sup>70</sup> LBY-OTP-0073-0025, paras. 105-111.

<sup>71</sup> See above at para. 17(d).

<sup>72</sup> See Request for Non-Disclosure of Certain Annexes, para. 17.

public exposure to stigmatise individuals, disclosure of the Witnesses' identity would foreseeably and materially endanger their psychological well-being, in particular in relation to P-1673, P-1682, P-1685, P-1710, P-1720, P-1722 and P-1764.

***(c) The protection measures in place [REDACTED]***

27. The protection measures currently available to the witnesses [REDACTED] are [REDACTED]. As set out previously,<sup>73</sup> [REDACTED]. [REDACTED]. [REDACTED],<sup>74</sup> [REDACTED].

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

29. [REDACTED]<sup>75</sup>—[REDACTED]. [REDACTED].<sup>76</sup> [REDACTED]. [REDACTED].

30. [REDACTED]. [REDACTED],<sup>77</sup> [REDACTED].<sup>78</sup> [REDACTED].<sup>79</sup> [REDACTED].

31. [REDACTED]. [REDACTED].

32. In addition to [REDACTED], P-1673, P-1685, P-1720, P-1722, and P-1764 [REDACTED]<sup>80</sup> [REDACTED].

33. Finally, several of the eight Witnesses have taken deliberate steps to reduce their exposure and avoid drawing the attention of SDF/RADA. For example, [REDACTED].<sup>81</sup> [REDACTED].<sup>82</sup> [REDACTED].<sup>83</sup>

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<sup>73</sup> See e.g. Regulation 35 Application, para. 28; First Request for Non-Disclosure of Identity, para. 25; Second Request for Non-Disclosure of Identity, para. 27; Third Request for Non-Disclosure of Identity, para. 29. See also [REDACTED].

<sup>74</sup> See Annex 3, pp. 3, 6, 9, 13, 17, 21.

<sup>75</sup> See Annex 3, pp. 3, 6, 9, 13, 17, 21.

<sup>76</sup> See Annex 3, pp. 9.

<sup>77</sup> Annex 3, pp. 3, 6, 9, 13, 17, 21.

<sup>78</sup> Regulation 35 Application, para. 28. See also [REDACTED].

<sup>79</sup> Regulation 35 Application, para. 28.

<sup>80</sup> See Annex 3, pp. 3, 9, 17, 26, 30.

<sup>81</sup> See Annex 3, pp. 22, 29.

<sup>82</sup> See Annex 3, p. 9.

<sup>83</sup> See Annex 3, p. 17.

***(d) The eight Witnesses did not provide informed consent to their identity being disclosed***

34. The Witnesses' lack of informed consent to the disclosure of their identities further demonstrates that disclosure at this stage would be unsafe. Five witnesses—P-1673, P-1682, P-1685, P-1720 and P-1722—did not consent to the disclosure of their identity at this stage of the proceedings.<sup>84</sup> While P-1721 and P-1764 did not explicitly refuse consent, [REDACTED].<sup>85</sup> P-1710 deferred to the judgment of the Prosecution team who interviewed him, when asked about disclosure of his identity.<sup>86</sup> Taken together, the absence of informed consent and the credible, well-founded security concerns, [REDACTED], underscore the seriousness of the risks they face. When viewed against the background of SDF/RADA's demonstrated capacity and motivation to target former detainees; their history of targeting former detainees, including through the use of extreme violence and killings; [REDACTED]; [REDACTED], it is clear that disclosure of their identity would expose the eight Witnesses [REDACTED] to an objectively unacceptable level of risk.

**3. Withholding their identity is necessary to reduce the risks and is the least intrusive measure available**

35. In these circumstances, it is necessary to withhold the identity of the eight Witnesses from disclosure to Mr EL HISHSRI.

36. Non-disclosure of identity is necessary where no alternative measure short of anonymity can adequately safeguard the witnesses. [REDACTED].<sup>87</sup> 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.<sup>88</sup> 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."<sup>89</sup>

37. In the present case, non-disclosure of the identity of the eight Witnesses is necessary as [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED],

<sup>84</sup> See Annex 3, pp. 3, 6, 9, 16-17, 26.

<sup>85</sup> See Annex 3, pp. 20, 30.

<sup>86</sup> See Annex 3, p. 12.

<sup>87</sup> [REDACTED]

<sup>88</sup> ICC-01/12-01/15-61, para. 8. See also ICC-01/12-01/18-174-tENG-Red, para. 31.

<sup>89</sup> ICC-01/04-01/07-476, para. 49.

non-disclosure is the only measure capable of safeguarding the eight Witnesses [REDACTED].

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

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

40. In order to effectively implement anonymity, it is necessary to redact the identifying information in the materials of witnesses P-1673, P-1685, P-1710, P-1720, P-1721, P-1722, and P-1764. In addition to the names of the witnesses, such identifying information may include their (1) personal details such as their signatures, dates and places of birth, places of residence, educational and occupational backgrounds, and names and identifying information on family members; (2) information related to their arrest and detention, such as exact dates of their arrest and release, the sequence of cell (and section) numbers where they were detained or names and identifying information of their cellmates or the fact that they shared the same cell; as well as (3) unique interactions with SDF/RADA members.<sup>90</sup>

41. It is further necessary to withhold certain associated materials related to P-1673, P-1685, P-1710, P-1720, P-1721, P-1722, and P-1764, where the materials themselves would be identifying, and redactions could not be effectively implemented. [REDACTED].<sup>91</sup>

42. In the case of P-1682, [REDACTED] render him easily identifiable notwithstanding redactions. [REDACTED]. [REDACTED]. [REDACTED] the Prosecution has, instead of applying extensive redactions, set out the parts of his statement it seeks to rely upon for the confirmation of charges proceedings in verbatim in an anonymised summary.<sup>92</sup>

43. Lastly, effecting disclosure of identity 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 witnesses [REDACTED] would suffer in case of any inadvertent disclosure. The inherent risks are particularly acute considering SDF/RADA's influence and

<sup>90</sup> The Prosecution has set out in detail in Annex 1 the bases for the non-standard redactions applied.

<sup>91</sup> The Prosecution has set out in detail in Annex 2 the reasons why these documents may be identifying and should be withheld.

<sup>92</sup> LBY-OTP-02790777; LBY-OTP-02856214.

power permeating all level of the Libyan society, their reported ability [REDACTED],<sup>93</sup> [REDACTED]<sup>94</sup> [REDACTED],<sup>95</sup> such that even the professionalism of the Defence cannot confer sufficient security guarantees to the witnesses at this stage of the proceedings.

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

#### **4. Withholding the identity is proportionate**

45. The Defence and Mr EL HISHRI will not be prejudiced by withholding the identity of the eight Witnesses.

46. When assessing this last criterion, the Chamber should give due consideration of the pre-trial nature of proceedings in which the non-disclosure is sought, considering, as held by the Appeals Chamber, that “[a]s such it may be permissible to withhold the disclosure of certain information from the Defence prior to the hearing to confirm the charges that could not be withheld prior to trial.”<sup>96</sup>

47. Withholding the identity of the eight Witnesses, disclosing redacted versions of the witness statements and associated materials of P-1673, P-1685, P-1710, P-1720, P-1721, P-1722, and P-1764, as well as a summary of P-1682 will not unduly prejudice Mr EL HISHRI’s fair trial rights since: (i) the scope of confirmation proceedings is limited; (ii) in relation to P-1673, P-1685, P-1710, P-1720, P-1721, P-1722, and P-1764, the Defence is receiving redacted versions of their statements and associated materials and the redactions applied do not materially hinder the understanding of the statements in terms of the substance of the witnesses accounts; (iii) in relation to P-1682 the summary provides the relevant parts of P-1682’s account as well as information that is material for the preparation of the defence, pursuant to rule 77 of the Rules, in verbatim extracts; and (iv) the evidence of the relevant witnesses is corroborative of other evidence available to the Defence.

48. Finally, the limited interference with Mr EL HISHRI’s fair trials rights is justified by the gravity of the risks. As demonstrated above, SDF/RADA’s demonstrated capacity and motivation to target former detainees, coupled with Mr EL HISHRI and SDF/RADA’s history of targeting former detainees including through the use of extreme violence and killings,

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<sup>93</sup> [REDACTED].

<sup>94</sup> [REDACTED].

<sup>95</sup> [REDACTED].

<sup>96</sup> ICC-01/04-01/07-475, para. 68.

[REDACTED], and [REDACTED], could expose the Witnesses and their families to immediate and irreversible harm. In this context, the proposed non-disclosure of identity represents a proportionate response to mitigate severe risks.

#### **D. CONCLUSION AND RELIEF SOUGHT**

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

50. 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.



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**Nazhat Shameem Khan**  
**Deputy Prosecutor**

Dated this 30<sup>th</sup> day of March 2026

At The Hague, The Netherlands