

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 31 March 2026

PRE-TRIAL CHAMBER I

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

**SITUATION IN LIBYA
IN THE CASE OF
*THE PROSECUTOR v. KHALED MOHAMED ALI EL HISHRI***

Public

Public redacted version of “Prosecution’s request for authorisation to withhold the identity of witnesses P-0370, P-1733, P-1745, and P-1750 upon whose evidence the Prosecution will rely at the confirmation hearing”, ICC-01/11-01/25-89-Conf-Exp, 18 March 2026

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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 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”).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 2026 all materials upon which it intends to rely during the confirmation of charges proceedings.⁵ In furtherance of this order, the Prosecution requests the Chamber to authorise the non-disclosure of the identity of four Prosecution witnesses LBY-OTP-P-0370 (“P-0370”), LBY-OTP-P-1733 (“P-1733”), LBY-OTP-P-1745 (“P-1745”), and LBY-OTP-P-1750 (“P-1750”) (the “four Witnesses”). Specifically, the Prosecution requests authorisation to disclose to the Defence anonymous redacted versions of the statements of witnesses P-1733, P-1745 and P-1750 and associated witness materials, to redact the names of these witnesses in the metadata of these materials;⁶ and not to disclose certain annexes to their statements and associated witness materials,⁷ 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 witness P-0370, the Prosecution requests to disclose a summary of

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

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

³ 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.

⁴ 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.

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

⁶ *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.

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

relevant parts of the transcripts of P-0370's recorded interviews⁸ as well as anonymous redacted versions of two annexes,⁹ to withhold all identifying information pertaining to this witness, not to disclose the transcripts of his recorded witness interviews and certain annexes and other identifying associated witness materials,¹⁰ 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 four Witnesses at the confirmation hearing, their identity and cooperation cannot safely be disclosed at this stage: P-1733, P-1745 and P-1750 and [REDACTED] the four Witnesses [REDACTED] face objectively justifiable risks of physical harm and intimidation. In addition, P-1733, P-1745 and P-1750 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 1-3 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.

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

C. SUBMISSIONS

6. 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.¹¹

⁸ See LBY-OTP-03703701. The summary has been disclosed to the Defence; the Arabic translation will be disclosed by 19 March 2026.

⁹ See Annex 1, items 1-4.

¹⁰ See Annex 2, items 1-21.

¹¹ ICC-01/12-01/18-765-Red, para. 16. See also Decision on Non-Disclosure of Identity, para. 16.

7. The Court's appellate jurisprudence sets out several criteria relevant to substantiating a request for non-disclosure of witness identity:¹²

- 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 four Witnesses and their evidence

8. The Prosecution seeks authorisation for the non-disclosure of the identity of witnesses P-0370, P-1733, P-1745, and P-1750, whose evidence is summarised as follows:

- a. P-0370 [REDACTED]. While [REDACTED], he also provides information evidence on the following topics, which are of relevance to the contextual elements in the case against Mr EL HSIHRI: [REDACTED].¹³
- b. P-1733 [REDACTED] was detained in Mitiga Prison between [REDACTED] and [REDACTED]. [REDACTED]. The witness [REDACTED]. P-1733 was unlawfully imprisoned and subjected outrages upon personal dignity, cruel treatment, torture, other inhumane acts, [REDACTED] and persecution. The witness was tortured and beaten by Mr EL HISHRI [REDACTED]. P-1733 also provides evidence about Mr EL HISHRI's role and authority in Mitiga Prison and [REDACTED] as well as direct evidence of Mr EL HISHRI beating and torturing [REDACTED] female detainees. [REDACTED].¹⁴
- c. P-1745 [REDACTED] was detained in Mitiga Prison [REDACTED]. The witness was unlawfully imprisoned and subjected to outrages upon personal dignity, cruel treatment, torture, other inhumane acts [REDACTED]. He was tortured, beaten and shot [REDACTED] by Mr EL HISHRI. [REDACTED]. P-1745 provides direct evidence on [REDACTED] being tortured [REDACTED] as well on [REDACTED]. [REDACTED].¹⁵

¹² 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.

¹³ *See* Annex 3, pp. 2-3.

¹⁴ *See* Annex 3, pp. 5-6.

¹⁵ *See* Annex 3, p. 9.

- d. P-1750 [REDACTED] was detained in Mitiga Prison [REDACTED]. He was unlawfully imprisoned and subjected to outrages upon his personal dignity, cruel treatment, torture, [REDACTED], other inhumane acts [REDACTED]. He was beaten and tortured by Mr EL HISHRI repeatedly. P-1750 also provides evidence about Mr EL HISHRI's role and authority in Mitiga Prison as well as direct evidence on Mr EL HISHRI shooting a detainee [REDACTED] and beating another detainee [REDACTED]. [REDACTED]. [REDACTED].¹⁶

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

9. There are objectively justifiable risks to the safety of the four 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).¹⁷

(a) P-1733, P-1745 and P-1750 and [REDACTED] the four Witnesses [REDACTED] face objectively justifiable risks of physical harm and intimidation

10. There is an objectively justifiable risk to the safety of P-1733, P-1745 and P-1750 as well as [REDACTED] all four Witnesses because (1) [REDACTED] they face [REDACTED] risks of physical harm and intimidation; (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].

¹⁶ See Annex 3, pp. 13-14.

¹⁷ 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.

11. First, [REDACTED] P-1745 and P-1750 [REDACTED].¹⁸ P-1745 and P-1750, [REDACTED],¹⁹ [REDACTED]. [REDACTED] P-1745 and P-1750, [REDACTED].²⁰ In these circumstances, P-1745 and P-1750[REDACTED] have been assessed by the Prosecution's Security and Protection Unit ("SPU") to face a [REDACTED] risk of physical harm and intimidation, should P-1745 and P-1750's identity become known to SDF/RADA.²¹

12. P-1733, P-1745, P-1750 as well as [REDACTED] P-1733 [REDACTED].²² SPU has assessed that they face a [REDACTED] risk of physical harm, should their identity become known to SDF/RADA.²³ The three witnesses [REDACTED],²⁴ [REDACTED]. Moreover, as set out above,²⁵ [REDACTED], P-1733 has been assessed by SPU to face a [REDACTED] risk and P-1745 and P-1750 have been assessed to face a [REDACTED] risk of intimidation, should their identity become known to SDF/RADA.²⁶

13. [REDACTED] P-0370[REDACTED].²⁷ [REDACTED].²⁸ [REDACTED].²⁹ [REDACTED].³⁰ [REDACTED].³¹ In these circumstances, P-0370[REDACTED] been assessed by SPU to face a [REDACTED] risk of physical harm and intimidation, should the witness's identity become known to SDF/RADA.³²

14. Second, as set out in detail previously,³³ 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

¹⁸ Annex 3, pp. 9, 11, 13, 15 and fn. 2.

¹⁹ Annex 3, pp. 11, 16.

²⁰ Annex 3, pp. 11-12, 15-16.

²¹ Annex 3, pp. 11, 15.

²² Annex 3, pp. 5, 7-8, 9, 11, 13, 15 and fn. 2.

²³ Annex 3, pp. 7, 11, 15.

²⁴ Annex 3, pp. 7, 11, 16.

²⁵ See para. 11 above.

²⁶ Annex 3, pp. 7, 11, 15.

²⁷ Annex 3, pp. 2, 4.

²⁸ Annex 3, pp. 3-4.

²⁹ Annex 3, p. 4.

³⁰ Annex 3, p. 4.

³¹ Annex 3, p. 2.

³² Annex 3, pp. 4.

³³ 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].

[REDACTED]—are motivated to intimidate or otherwise interfere with Prosecution witnesses in this case [REDACTED]. [REDACTED]. [REDACTED].

15. [REDACTED] information received by the Prosecution further underscores this risk. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].³⁴ [REDACTED]. [REDACTED].

16. Third, even [REDACTED],³⁵ 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*,³⁶ 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.³⁷ This risk is amplified by his retained authority over SDF/RADA and his close family ties to the group.³⁸ Even with [REDACTED], Mr EL HISHRI maintains contact [REDACTED] who are themselves directly in contact or 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.

17. That this risk is not hypothetical is demonstrated [REDACTED]. As previously described,³⁹ [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].⁴⁰ [REDACTED]⁴¹ [REDACTED].⁴² [REDACTED].⁴³ 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].

³⁴ Annex 3, pp. 10, 14-15.

³⁵ See [REDACTED].

³⁶ 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”).

³⁷ See [REDACTED].

³⁸ Regulation 35 Application, paras. 17-19.

³⁹ See Request for Non-Disclosure of Certain Annexes, para. 27; Request to Submit Anonymous Summaries, para. 16.

⁴⁰ [REDACTED].

⁴¹ [REDACTED].

⁴² [REDACTED].

⁴³ [REDACTED].

18. Fourth, [REDACTED]: [REDACTED],⁴⁴ [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].⁴⁵ [REDACTED].

19. Fifth, the risk of physical harm and intimidation [REDACTED].⁴⁶ As set out before,⁴⁷ SDF/RADA not only has the ability to identify, track, and target [REDACTED]. [REDACTED],⁴⁸ [REDACTED]. [REDACTED],⁴⁹ [REDACTED]. [REDACTED].⁵⁰ [REDACTED].⁵¹ [REDACTED].⁵²

20. Finally, as previously set out⁵³ and acknowledge by the Chamber,⁵⁴ [REDACTED] demonstrates a [REDACTED] threat to witnesses [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED],⁵⁵ [REDACTED].

21. Moreover, [REDACTED]. [REDACTED],⁵⁶ [REDACTED].

22. These risks to the four Witnesses are further exacerbated by the [REDACTED]. [REDACTED]. In these circumstances, disclosure of the Witnesses' identity could expose them [REDACTED] to immediate and serious risks of physical harm and intimidation.

(b) P-1733, P-1745 and P-1750 additionally face objectively justifiable psychosocial risks

23. In addition to the serious risks of physical harm and intimidation, three of the four Witnesses also face an objectively justifiable risk of psychological harm should their identity be disclosed to the Defence.⁵⁷ Their psychological vulnerability is rooted in the severity of the crimes they endured at Mitiga Prison—torture, cruel treatment, sexual violence, and other inhumane acts—and is compounded by SDF/RADA's documented use of public exposure to

⁴⁴ See para. 15 above.

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

⁴⁶ See Decision on Non-Disclosure of Identity, para. 47.

⁴⁷ 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.

⁴⁸ LBY-OTP-0074-0889, paras. 214-217; LBY-OTP-0083-0663, para. 143; LBY-OTP-00007275, para. 48.

⁴⁹ Annex 3, p. 6 and paras. 15, 18 above.

⁵⁰ See paras. 11-12 above.

⁵¹ Annex 3, pp. 9, 13.

⁵² Annex 3, pp. 11, 15.

⁵³ Regulation 35 Application, para. 21; Third Request for Non-Disclosure of Identity, para. 20; Request to Submit Anonymous Summaries, para. 17.

⁵⁴ Decision on Non-Disclosure of Identity, para. 47.

⁵⁵ Annex 3, p. 4.

⁵⁶ See para. 15 above.

⁵⁷ See [REDACTED].

intimidate, stigmatise, or punish individuals. 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.

24. P-1733, P-1745, and P-1750 face [REDACTED] risks to their psychosocial well-being, which would likely increase upon disclosure. All three witnesses were subjected to extremely serious abuse during detention, including outrages on personal dignity, torture, cruel treatment, other inhumane acts.⁵⁸ [REDACTED].⁵⁹ [REDACTED].⁶⁰ P-1733, P-1745, and P-1750 [REDACTED].⁶¹ P-1733, P-1745, and P-1750 [REDACTED].⁶² [REDACTED] and disclosure to Mr EL HISHRI would likely further elevate this risk, particularly in relation to [REDACTED].⁶³

25. As set out in detail previously,⁶⁴ 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].⁶⁵ [REDACTED],⁶⁶ [REDACTED]. [REDACTED]. [REDACTED].⁶⁷ 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 three Witnesses, particularly as they are already vulnerable to stigma [REDACTED].

26. In light of the witnesses’ past abuse, current vulnerability, and SDF/RADA’s prior use of public exposure to stigmatise individuals, disclosure of the witnesses’ identity would foreseeably [REDACTED] endanger their psychological well-being of P-1733, P-1745 and P-1750.

⁵⁸ Annex 3, pp. 5-6, 8-10, 12-13, 16.

⁵⁹ Annex 3, pp. 5, 8-9, 12-13, 16.

⁶⁰ Annex 3, pp. 6-8, 11-12, 15-16.

⁶¹ Annex 3, pp. 6-8, 11-12, 15-16.

⁶² Annex 3, p. 6.

⁶³ Annex 3, pp. 8, 12, 16.

⁶⁴ 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.

⁶⁵ LBY-OTP-0073-0025, paras. 105-111.

⁶⁶ See e.g. Regulation 35 Application, para. 14; First Request for Non-Disclosure of Identity, para. 15; Second Request for Non-Disclosure of Identity, para. 14; Third Request for Non-Disclosure of Identity, para. 16.

⁶⁷ See Request for Non-Disclosure of Certain Annexes, para. 17.

(c) The protection measures in place [REDACTED]

27. The protection measures currently available to [REDACTED] P-0370, P-1745 and P-1750 [REDACTED]. As set out previously,⁶⁸ [REDACTED]. [REDACTED]. [REDACTED].⁶⁹ 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. [REDACTED].⁷⁰ [REDACTED].⁷¹

28. Moreover, the additional protection measures available to P-1733, P-1745 and P-1750 [REDACTED] offer limited protection. [REDACTED]. [REDACTED]⁷²[REDACTED]. [REDACTED]. [REDACTED],⁷³ [REDACTED]. [REDACTED],⁷⁴ [REDACTED].

29. [REDACTED] additional constraints faced by the witnesses [REDACTED]. [REDACTED],⁷⁵ [REDACTED]. [REDACTED].⁷⁶ [REDACTED]⁷⁷ and that further heighten their exposure to the risks posed by SDF/RADA.

30. Finally, while the four Witnesses have taken deliberate steps to reduce their exposure and avoid drawing the attention of the threat actors [REDACTED]. [REDACTED],⁷⁸ [REDACTED],⁷⁹ [REDACTED]. [REDACTED].

(d) Three of the four Witnesses did not provide informed consent to their identity being disclosed

31. The lack of informed consent from three of the four Witnesses to the disclosure of their identities further demonstrates that disclosure at this stage would be unsafe. Three witnesses—P-0370, P-1745, and P-1750—did not consent to the disclosure of their identity at this stage of

⁶⁸ 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].

⁶⁹ See Annex 3, pp. 4, 11, 15.

⁷⁰ Regulation 35 Application, para. 28. See also [REDACTED].

⁷¹ Regulation 35 Application, para. 28.

⁷² Annex 3, pp. 7, 15.

⁷³ Annex 3, p. 7.

⁷⁴ Annex 3, pp. 7, 11, 15.

⁷⁵ Annex 3, p. 6.

⁷⁶ Annex 3, pp. 10-11, 15.

⁷⁷ See Annex 3, pp. 6-7, 11, 15.

⁷⁸ See Annex 3, pp. 2, 4-5, 7, 9, 11, 13, 15.

⁷⁹ Annex 3, p. 4.

the proceedings.⁸⁰ Their refusal reflects their understanding of the risks they face and weighs heavily against disclosure.

32. Although P-1733 consented to the disclosure of [REDACTED] evidence and identity,⁸¹ this does not obviate the Chamber's duty to assess the objective risks, particularly given [REDACTED] and [REDACTED] psychosocial vulnerabilities. Even where a witness authorises the use of their statement, knowing that their identity might be disclosed to the Defence, any consent must still be weighed by the Chamber against the objective risks associated with disclosure.⁸² In the case of P-1733, despite [REDACTED].⁸³ As set out above, [REDACTED].⁸⁴ Moreover, [REDACTED] psychosocial risks [REDACTED] further heighten [REDACTED] vulnerabilities.⁸⁵

33. Taken together, the absence of informed consent and/or the credible, well-founded security concerns, [REDACTED], underscore the seriousness of the risks the four Witnesses [REDACTED] face. When viewed against the background of SDF/RADA's demonstrated capacity and motivation to target former detainees and (potential and perceived) witnesses; 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 four 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

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

35. 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

⁸⁰ Annex 3, pp. 4, 11, 15.

⁸¹ Annex 3, p. 6.

⁸² See ICC-01/05-01/08-202, para. 12.

⁸³ Annex 3, p. 6.

⁸⁴ See paras. 12, 19, 28-29 above.

⁸⁵ See para. 24 above.

⁸⁶ [REDACTED].

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

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

37. [REDACTED]. [REDACTED].

38. In addition, non-disclosure of the witnesses’ identity is necessary and the least intrusive means to protect P-1733, P-1745, and P-1750 from identified psychosocial risks. As set out above, disclosure would foreseeably [REDACTED] endanger their psychological well-being. While therapeutic care may, over time, alleviate certain harms for some witnesses, unless and until any therapeutic intervention can be shown to be effectively mitigating the relevant risks for the specific witness, anonymity is the least restrictive means to ensure their protection. Moreover, therapeutic care cannot neutralise stigma-driven harms—including re-victimisation, social shaming, and related coercive pressures—to which [REDACTED] are especially vulnerable. In these circumstances, anonymity is the only effective protective measure to avert predictable psychological harm and preserve the witnesses’ ability to cooperate safely.

39. Finally, in light of the risks attached to disclosure of the identity of the four Witnesses set out above, any incident affecting any of the four Witnesses [REDACTED]. In these circumstances, the non-disclosure of the identity of the four 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-1733, P-1745, and P-1750, as well as in two annexes to P-0370’s transcribed interviews. 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

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.

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.⁸⁹

41. It is further necessary to withhold certain associated materials related to P-1733, P-1745, and P-1750, where the materials themselves would be identifying, and redactions could not be effectively implemented. [REDACTED].⁹⁰

42. In the case of P-0370, [REDACTED] render him easily identifiable notwithstanding redactions. [REDACTED].⁹¹ [REDACTED].⁹² [REDACTED]. Moreover, transcribed interviews are inherently more difficult for a reader to follow than a written witness statements and redactions materially compound this difficulty. [REDACTED], the Prosecution has, instead of applying extensive redactions, set out the parts of his transcribed interviews it seeks to rely upon for the confirmation of charges proceedings in verbatim in an anonymised summary.⁹³

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 power permeating all level of the Libyan society, their reported ability [REDACTED],⁹⁴ [REDACTED]⁹⁵ [REDACTED],⁹⁶ 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 four Witnesses and their families.

4. Withholding the identity is proportionate

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

⁸⁹ The Prosecution has set out in detail in Annex 1 the bases for the non-standard redactions applied.

⁹⁰ The Prosecution has set out in detail in Annex 2 the reasons why these documents may be identifying and should be withheld.

⁹¹ See Annex 3, pp. 2-3.

⁹² See Annex 3, pp. 2-3.

⁹³ LBY-OTP-03703701.

⁹⁴ [REDACTED].

⁹⁵ [REDACTED].

⁹⁶ [REDACTED].

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.”⁹⁷

47. Withholding the identity of the four Witnesses, disclosing redacted versions of the witness statements and associated materials of P-1733, P-1745, and P-1750, as well as a summary of P-0370’s evidence and two redacted annexes related to P-0370 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-1733, P-1745, and P-1750, 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-0370, the summary provides the relevant parts of P-0370’s account in verbatim extracts and the Defence is receiving redacted versions of two annexes, without the redactions materially hindering the substance of the annexes; 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, [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.

⁹⁷ ICC-01/04-01/07-475, para. 68.



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Deputy Prosecutor

Dated this 31st day of March 2026

At The Hague, The Netherlands