



Original: English

No. ICC-01/11-01/25

Date: 13 May 2026

PRE-TRIAL CHAMBER I

Before:

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

SITUATION IN LIBYA

THE PROSECUTOR V. KHALED MOHAMED ALI EL HISHRI

Public redacted version of

Decision on the Prosecution's request to maintain contact restrictions

Decision to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

☒ The Office of the Prosecutor

☒ Counsel for the Defence

☐ Legal Representatives of the Victims

☐ Legal Representatives of the Applicants

☐ Unrepresented Victims

☐ Unrepresented Applicants
(Participation/Reparation)

☒ The Office of Public Counsel for Victims

☐ The Office of Public Counsel for the Defence

☐ States' Representatives

☐ Amicus Curiae

REGISTRY

Registrar

Mr Osvaldo Zavala Giler

☐ Counsel Support Section

☒ Victims and Witnesses Unit

☒ Detention Section

☐ Victims Participation
and Reparations Section

☐ Other

PRE-TRIAL CHAMBER I (the ‘Chamber’) of the International Criminal Court (the ‘Court’ or the ‘ICC’), following the ‘Prosecution’s request to maintain contact restrictions’ (the ‘Request’),¹ issues this decision pursuant to regulation 101(2) of the Regulations of the Court.

I. Procedural history

1. On 4 August 2025, the Prosecution requested the Chamber to order measures restricting the communication between Mr Khaled Mohamed Ali El Hishri (‘Mr El Hishri’) and non-privileged persons immediately upon his surrender to the Court (the ‘First Request’).²

2. On 4 December 2025, the Prosecution filed a further request for contact restrictions, seeking an order to separate Mr El Hishri from other Arabic-speaking detainees (the ‘Further Request’).³

3. On 20 February 2026, the Chamber issued its second decision on contact restrictions (the ‘Second Decision on Contact Restrictions’) in which it: granted the First Request in part; granted the Further Request; instructed the Registry to submit a report on the implementation of the restrictions by no later than 2 April 2026; and ordered the Prosecution and the Defence to submit their respective views on the contact restrictions, if any, by no later 13 April 2026 and 17 April 2026, respectively.⁴

4. On 30 March 2026, pursuant to the Chamber’s order, the Registry filed a report on the implementation of the aforementioned contact restrictions (the ‘Registry Report’).⁵

5. On 13 April 2026, the Prosecution filed the Request seeking an order ‘to maintain the contact restrictions in place in full at least until the Chamber’s decision on the confirmation of charges, subject to periodic review.’⁶

6. On 21 April 2026, the Defence filed its response opposing the Request (the ‘Defence Response’).⁷

¹ Prosecution’s request to maintain contact restrictions, ICC-01/11-01/25-103-Conf-Exp (confidential redacted version filed on 14 April 2026).

² Prosecution’s request for contact restrictions pursuant to regulation 101(2) of the Regulations of the Court, ICC-01/11-01/25-16-US-Exp (confidential redacted version filed on 3 December 2025).

³ Prosecution’s further request for contact restrictions pursuant to regulation 101(2) of the Regulations of the Court, ICC-01/11-01/25-31-US-Exp (reclassified as confidential on 18 December 2025).

⁴ Second decision on contact restrictions, ICC-01/11-01/25-70-Conf-Red.

⁵ First Registry Report on the Implementation of Restrictions on Contact, ICC-01/11-01/25-96-Conf.

⁶ Request, para. 1.

⁷ Defence Response to Prosecution Request to Maintain Contact Restrictions, ICC-01/11-01/25-105-Conf.

7. On 4 May 2026, the Registry filed an updated report on the security situation in Libya.⁸

II. Submissions

8. The Prosecution submits that it requests the Chamber to maintain the contact restrictions to prevent Mr El Hishri from sharing confidential information through his non-privileged contacts or Arabic-speaking co-detainees, putting the safety and security of victims and (potential and perceived) witnesses as well as their families at risk, and ultimately jeopardising the integrity of the proceedings at the Court, [REDACTED].⁹ The Prosecution further maintains that the existing contact restrictions: (i) are in accordance with the law and remain necessary to safeguard the integrity of the proceedings and the safety and security of the victims, witnesses, and their families;¹⁰ and (ii) continue to strike a fair balance between Mr El Hishri's rights and the need to safeguard the integrity of the proceedings and the safety and security of victims, witnesses, and their families.¹¹

9. The Defence requests the Chamber to dismiss the Request in its entirety.¹² The Defence submits that the restrictions preventing Mr El Hishri from associating with Arabic-speaking detainees at the Detention Centre should be lifted.¹³ In support of this request, the Defence argues, *inter alia*, that: there is no evidence that Mr El Hishri ordered, solicited, or induced the alleged witness interference, thus undermining the alleged necessity and proportionality of the extension of the contact restrictions;¹⁴ the Registry has not reported any violations of the existing restrictions by Mr El Hishri;¹⁵ considering Mr El Hishri's inability to meaningfully communicate in a language other than Arabic, the said measures equate to a deprivation of meaningful human contact and in turn amount to a violation of regulation 201(8) of the Regulations of the Registry.¹⁶ It argues that the deprivation, when weighed against the unsubstantiated risks to the witnesses that Mr El Hishri allegedly poses, becomes undue interference with Mr El Hishri's rights, and thus, the continuation of the existing restrictions is disproportionate to the aim sought.

III. Determination

⁸ ANNEX I to the Second Report of the Registry on the Security and Political Situation on the State of Libya, ICC-01/11-01/25-111-Conf-Anx 1 (the 'Registry Report on Security Situation').

⁹ Request, para. 5.

¹⁰ Request, paras 7-14.

¹¹ Request, para. 15.

¹² Defence Response, para. 20.

¹³ Defence Response, para. 2.

¹⁴ Defence Response, para. 11.

¹⁵ Defence Response, para. 12.

¹⁶ Defence Response, paras 15-18.

10. The Chamber notes that, under the Court’s legal framework, any requests to extend contact restrictions must be assessed on the basis of concrete, specific, and up-to-date information.¹⁷

11. The Chamber recalls that it imposed the current contact restrictions pursuant to regulation 101 of the Regulations of the Court on the basis that allowing Mr El Hishri unrestricted contacts with persons inside and outside the Detention Centre could prejudice or otherwise affect the outcome of the proceedings against him,[REDACTED]¹⁸ and such contact would also threaten the safety and security of victims, actual and potential witnesses, and their families.¹⁹ Particularly, the restrictions separating Mr El Hishri from other Arabic-speaking detainees were imposed after taking into account Mr El Hishri and his associates’ alleged involvement in witness intimidation, their capability to interfere with individuals they perceive to be potential or actual witnesses, and the precarious security situation in Libya.²⁰

12. The Chamber notes the Prosecution’s submissions that the risks that justified the imposition of the existing restrictions have not diminished but have continuously intensified.²¹ The reports received by the Prosecution after 4 December 2025 demonstrate that SDF/RADA continues to possess the capability to interfere with, intimidate, or otherwise prejudice the proceedings and that this capability directly translates into an ability to compromise the integrity of the proceedings.²² The Chamber agrees with the Prosecution submission that there are indications to the effect that SDF/RADA’s efforts to intimidate witnesses (potential and perceived) and undermine the judicial process are likely to escalate as the Confirmation Hearing draws closer.²³ The Chamber considers that, though there may be no evidence in the Request that the targeting of witnesses has been carried out on the orders of, or pursuant to the solicitation or inducement of, Mr El Hishri, the information presented demonstrates that the potential and perceived Prosecution witnesses, as well as their families, continue to face concrete and genuine risks to their safety. On the basis of the Prosecution’s demonstration, and having further considered the updated information received from the Registry regarding the

¹⁷ Pre-Trial Chamber II, *The Prosecutor V. Mahamat Said Abdel Kani*, Public Redacted Version of ‘Decision on the “Prosecution’s Second Request for the Extension of Contact Restrictions”’, 5 May 2021, ICC-01/14-01/21-69-Conf, 26 April 2022, ICC-01/14-01/21-69-Red, para. 24.

¹⁸ Second Decision on Contact Restrictions, para. 35.

¹⁹ Second Decision on Contact Restrictions, para. 36.

²⁰ Second Decision on Contact Restrictions, para. 43.

²¹ Request, para. 7.

²² Request, para. 9.

²³ Request, para. 12.

situation in Libya,²⁴ the Chamber is satisfied that, if the current contact restrictions were to be lifted or relaxed at this stage, existing risks would only increase.

13. Whilst the Registry has reported no incidents in relation to Mr El Hishri's detention regime, including non-privileged telephone calls, visits, and written correspondence,²⁵ the Chamber, recalling the preventative nature of contact restrictions, finds that the current contact restrictions regime shall nonetheless be maintained in light of the concrete risks identified above. Mr El Hishri's compliance with the restrictions is not at present a sufficient basis for lifting or easing such restrictions. The Chamber considers that, at this stage, the abovementioned risks cannot be mitigated by measures other than partly restricting Mr El Hishri's communications from the Detention Centre with individuals outside the Detention Centre and his separation from other Arabic-speaking detainees.

14. The Chamber notes that there has been no material change in the circumstances having led to the abovementioned findings and considers that the information currently before it is sufficiently specific and points to concrete risks of interference so as to justify the extension of the contact restrictions currently imposed by the Second Decision on Contact Restrictions.

15. In light of the above, and recalling that any restrictions of Mr El Hishri's rights must be necessary and proportionate, the Chamber hereby maintains the contact restrictions as set forth in the Second Decision on Contact Restrictions and reiterates that the Registry shall immediately inform the Chamber and the Defence, on an *ex parte* basis, of any violation of the contact restrictions regime.

16. In order to allow the Chamber to conduct, if necessary, a further review of the above restrictions, the Chamber sets the following time limits pursuant to regulation 34 of the Regulations of the Court. The Registry shall submit a report on the implementation of these restrictions and any related development by no later than 15 June 2026, accompanied by a redacted version if necessary. Should the Prosecution wish to maintain the aforementioned contact restrictions, a reasoned request to this effect shall be submitted by no later than 22 June 2026. Response to the Prosecution's request, if any, are due by no later than 2 July 2026.

17. In addition to the above, should there arise a compelling reason to modify the restrictions at an earlier date, the Chamber shall review the matter as soon as practicable upon the request of the parties or the Registry.

²⁴ Registry Report on Security Situation.

²⁵ Registry Report on Contact Restrictions, para.18.

FOR THESE REASONS, THE CHAMBER HEREBY

GRANTS the Request;

ORDERS the Registry to maintain the existing contact restrictions until the issuance of the confirmation of charges decision;

ORDERS the Registry to immediately inform the Chamber of any violation of the contact restrictions imposed and to submit an updated report on the implementation of the restrictions by no later than 15 June 2026;

ORDERS the Prosecution, if it sees the need to maintain the contact restrictions, to submit a request to this effect by no later than 22 June 2026; and

SETS the deadline for any response to such a request to 2 July 2026.

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



Judge Iulia Antoanella Motoc, Presiding



**Judge Reine Adélaïde Sophie Alapini-
Gansou**



Judge María del Socorro Flores Liera

Dated this Wednesday, 13 May 2026

At The Hague, The Netherlands