

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No. ICC-01/11-01/25

Date: 23 June 2026

Date of original: 20 February 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

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

Public redacted version of

Second decision on 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’) issues the present decision on contact restrictions (the ‘Decision’).

I. Procedural history and submissions

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’).¹

2. The Prosecution submits that there are reasonable grounds to believe that contact between Mr El Hishri and non-privileged persons ‘could result in the dissemination of confidential material, put the safety and security of victims and witnesses as well as their families at risk, and ultimately jeopardise the integrity of the proceedings at the Court, including [REDACTED].’²

3. The Prosecution avers that the human resources, financial means, physical reach, surveillance capabilities, influence, and territorial and aerial control enable Mr El Hishri, his associates, and SDF/RADA to interfere and intimidate witnesses.³ Considering Mr El Hishri’s indispensability to and authority over the group, he could instruct his associates to engage in conduct that could prejudice or otherwise affect the outcome of the proceedings against him.⁴ It further submits that Mr El Hishri and SDF/RADA have a history of concealing crimes, intimidating witnesses, and violating judicial orders,⁵ and that any interference and intimidation of witnesses in this case, as well as the dissemination of confidential information, [REDACTED].⁶

4. For these reasons, the Prosecution requests the Chamber to apply the following restrictions to Mr El Hishri’s contacts from the time that Mr El Hishri is taken into ICC custody and detained at the ICC Detention Centre (the ‘Detention Centre’) until the end of the confirmation of charges hearing:⁷

- (a) Limit Mr El Hishri’s telephone calls, visits, and correspondence to a restricted number of persons, with the exception of duly appointed counsel and diplomatic

¹ 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).

² First Request, para. 2.

³ First Request, paras 11-16.

⁴ First Request, para. 16.

⁵ First Request, paras 17-22.

⁶ First Request, paras 23-25.

⁷ First Request, para. 29.

and/or consular assistance under regulations 97 and 98 of the Regulations of the Court (the ‘Regulations’). Authorised persons should be identified in consultation with the Prosecution, with their identity and contact details duly verified with the support of the Victims and Witnesses Unit (the ‘VWU’) and a reliable means of identifying them through voice recognition when in contact with the suspect;

- (b) Limit any and all communication exchanged over telephone calls, in written correspondence, and during visits to a language that the Registry understands, such as Standard Arabic, and prohibit the use of obscure, slang, or coded language aimed at bypassing or violating the ordered measures;
- (c) Prohibit any discussion related to the case or potential witnesses, whether over telephone calls, in written correspondence, or during visits, other than with duly appointed counsel;
- (d) Instruct the Chief Custody Officer to review all correspondence to and from Mr El Hishri;
- (e) Instruct Detention Centre staff to be within hearing and sight of non-privileged visits with El Hishri; and
- (f) Actively monitor all non-privileged telephone calls with Mr El Hishri under regulation 175 of the Regulations of the Registry (the ‘RoR’).⁸

5. To this end, the Prosecution further requests the Chamber to instruct the Registry to implement the following measures:

- (a) Limit the duration of non-privileged telephone calls to a maximum two 60-minute sessions per week and non-privileged visits to a maximum of 90 minutes per week;
- (b) Immediately end conversations when restrictions are believed to be violated;
- (c) Intercept and confiscate correspondence when restrictions are believed to be violated;
- (d) Maintain a log of all non-privileged telephone calls and visits with Mr El Hishri, including names, times, dates, and duration of telephone calls, correspondence, and visits. The log should be shared with the Prosecution;
- (e) Immediately inform the Pre-Trial Chamber and the Prosecution whenever restrictions are not respected;

⁸ First Request, para. 27.

- (f) Ensure that visitation areas are devoid of music or loud noise that may impair hearing;
- (g) Ensure that the suspect does not enter the visitation area with documents or materials of a privileged or confidential nature pertaining to the ICC case against him;
- (h) Inform those authorised to communicate with the suspect that they may not discuss confidential or protected information, speak in code or deliberately lower their voices to conceal what they are saying, or record the conversation or give access to the communication to any third party;
- (i) Ensure that no unannounced or unauthorised individual participates in a call with Mr El Hishri, passively or actively listens to calls with Mr El Hishri, or otherwise receives or obtains the content of calls with Mr El Hishri aurally or textually. For this reason, prohibit the use of speaker phone and the audio or video recording of any calls with Mr El Hishri; and
- (j) Add persons to the list of persons authorised to communicate with Mr El Hishri only by permission of the Chamber, and in consultation with the Prosecution.⁹

6. On 5 August 2025, pursuant to the Chamber's instructions,¹⁰ the Registry provided its observations on the First Request (the 'First Observations'),¹¹ stating that it is prepared to comply with the measures sought in the First Request, albeit with some limitations as detailed below.¹² [REDACTED].¹³ [REDACTED].¹⁴

7. [REDACTED].¹⁵ [REDACTED].¹⁶ [REDACTED].¹⁷

8. [REDACTED].¹⁸ [REDACTED].¹⁹

9. On 31 October 2025, the Prosecution filed a second request on contact restrictions, providing additional information in support of its First Request and, on that basis, requesting

⁹ First Request, para. 28.

¹⁰ Email from the Chamber, '[Under seal, ex parte - 1/11] Order to provide observations on document ICC-01/11-201-US-Exp', 4 August 2025 at 15:26.

¹¹ Registry's Observations on the "Prosecution's request for contact restrictions pursuant to regulation 101(2) of the Regulations of the Court" (ICC-01/11-201-US-Exp) dated 4 August 2025, 5 August 2025, ICC-01/11-01/25-17-US-Exp (confidential redacted version filed 3 December 2025).

¹² First Observations, para. 28.

¹³ First Observations, para. 7.

¹⁴ First Observations, para. 8.

¹⁵ First Observations, para. 20.

¹⁶ First Observations, para. 21-24.

¹⁷ First Observations, para. 25.

¹⁸ First Observations, para. 27.

¹⁹ First Observations, para. 27.

additional restrictions on Mr El Hishri's contact with his co-detainees (the 'Second Request').²⁰ In its Second Request, the Prosecution provides additional information in support of its First Request²¹ and seeks the imposition of additional measures restricting the suspect's contacts with his co-detainees, who he may 'manipulate' into 'shar[ing] confidential information, putting the safety and security of victims and witnesses as well as their families at risk, and ultimately jeopardising the integrity of the proceedings at the Court, [REDACTED]'.²² Specifically, it requests the Chamber to order the Registry to:²³

- (a) Prohibit any and all case or evidence-related communications of Mr El Hishri with his co-detainees;
- (b) Limit any and all of Mr El Hishri's communications with his co-detainees to a language the Registry understands, such as Standard Arabic, and prohibit the use of obscure, slang, or coded language aimed at bypassing or violating the ordered measures; and
- (c) Actively monitor his communications and contact with his co-detainees, in particular detainees who are Arabic speaking, [REDACTED].

10. To this end, it requests the Chamber to order the Registry to:²⁴

- (a) Limit the duration of Mr El Hishri's interactions with his co-detainees as necessary to enable active monitoring as outlined above;
- (b) Immediately end conversations when restrictions are believed to be violated;
- (c) Intercept and confiscate correspondence when restrictions are believed to be violated; and
- (d) Immediately inform the Chamber and the Prosecution whenever restrictions are not respected.

²⁰ Prosecution's provision of additional information regarding contact restrictions and second request for contact restrictions pursuant to regulation 101(2) of the Regulations of the Court, ICC-01/11-01/25-21-Conf.

²¹ Second Request, paras 6-10.

²² Second Request, paras 15-30.

²³ Second Request, para. 27. *See also* Second Request para. 21.

²⁴ Second Request, para. 28.

11. On 5 November 2025, pursuant to the Chamber's instructions,²⁵ the Registry provided its observations on the Second Request (the 'Second Observations'),²⁶ stating that the contact restrictions sought in the Second Request 'are not feasible within the existing detention regime of the [Detention Centre]'.²⁷ To restrict Mr El Hishri's contact with other detainees, the Registry informs that [REDACTED]²⁸
12. On 26 November 2026, the Chamber issued its 'First decision on contact restrictions' (the 'First Decision'), in which it notably dismissed the Second Request, with reasons to follow.²⁹
13. On 1 December 2025, pursuant to a warrant of arrest issued by the Chamber on 10 July 2025,³⁰ Mr El Hishri was surrendered to the Court.³¹
14. On the same day, the Chamber instructed the Registry to provisionally implement contact restrictions as specified in the First Request upon the arrival of the suspect at the Detention Centre, subject to the limitations and conditions set out in the Registry's First Observations.³²
15. On the same day, the Prosecution provided additional information on its request for contact restrictions and submitted an amended version of the Second Request (the 'Amended Request'), seeking the separation of Mr El Hishri from other Arabic-speaking detainees until the decision on the confirmation of charges is rendered.³³
16. On 2 December 2025, following the Chamber's instruction,³⁴ the Registry submitted its observations that 'the only feasible measure to fully restrict Mr El Hishri's communication with other Arabic-speaking detained persons would be his segregation from the other detained

²⁵ Email from the Chamber, '[Under seal, ex parte - 1/11] Order to provide observations on document ICC-01/11-212-US-Exp', 3 November 2025, at 13:57.

²⁶ Registry's Observations on the "Prosecution's provision of additional information regarding contact restrictions and second request for contact restrictions pursuant to regulation 101(2) of the Regulations of the Court" (ICC-01/11-212-US-Exp) dated 31 October 2025, ICC-01/11-01/25-22-Conf.

²⁷ Second Observations, para 9.

²⁸ Second Observations, paras 17-19.

²⁹ First decision on contact restrictions, ICC-01/11-01/25-24-US-Exp, (reclassified as confidential on 18 December 2025)

³⁰ Warrant of Arrest for Mr Khaled Mohamed Ali El Hishri, ICC-01/11-01/25-7.

³¹ [Scheduling order for the first appearance of Mr Khaled Mohamed Ali El Hishri](#), ICC-01/11-01/25-26.

³² Email from the Chamber, '[Confidential] Order to the Registry to provisionally implement contact restrictions. 1 December 2025 at 19:37.

³³ Prosecution's provision of additional information regarding its requests for contact restrictions and amended second request for contact restrictions pursuant to regulation 101(2) of the Regulations of the Court, ICC-01/11-01/25-25-US-Exp (confidential redacted version filed on 4 December 2025, lesser redacted version filed on 19 December 2025).

³⁴ Email from the Chamber, '[Ex parte - 1/11] Order for Registry to provide observations on Prosecution request ICC-01/11-220-US-Exp, 2 December 2025 at 10:03.

persons' (the 'Third Observations').³⁵ To implement this measure, Mr El Hishri would have to [REDACTED].³⁶ [REDACTED].³⁷

17. On the same day, the Chamber declared the Amended Request moot, as 'the [Amended Request was] in fact seeking the same remedy as the one sought by way of the Second Request,' which had already been dismissed by the Chamber, and recalled its invitation for the Prosecution to liaise with the Registry to identify feasible alternative measures.³⁸

18. On 4 December 2025, the Prosecution filed a further request for contact restrictions, amending the Second Request to separate Mr El Hishri from other Arabic-speaking detainees (the 'Further Request', collectively with the First, Second, and Amended Requests, the 'Requests').³⁹

19. On 5 December 2025, the Chamber instructed the Registry to provide any final observations regarding contact restrictions, including on the remedy sought in the Further Request, by 9 December 2025 and the Defence to file a consolidated response to pending requests regarding contact restrictions by 15 December 2025.⁴⁰

20. On 9 December 2025, the Registry filed its observations on the Further Request (the 'Third Observations'), stating that the measures included in the Further Request have, in the meantime, become feasible in light of [REDACTED].⁴¹ [REDACTED].⁴²

³⁵ Email from the Registry, RE: [Ex parte - 1/11] Order for Registry to provide observations on Prosecution request ICC-01/11-220-US-Exp, 2 December 2025 at 12:11, as placed on the record on 9 December 2025 as Registry's Observations on "Prosecution's provision of additional information regarding its requests for contact restrictions and amended second request for contact restrictions pursuant to regulation 101(2) of the Regulations of the Court", 1 December 2025, ICC-01/11-220-US-Exp, 5 December 2025, ICC-01/11-01/25-33-US-Exp (confidential redacted version filed on 9 December 2025), para. 11.

³⁶ Third Observations, para. 12.

³⁷ Third Observations, para. 12.

³⁸ Email from the Chamber, [Ex parte - 1/11] Decision on the 'Prosecution's provision of additional information regarding its requests for contact restrictions and amended second request for contact restrictions', 2 December 2025 at 16:39.

³⁹ 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).

⁴⁰ Email from the Chamber, [Confidential - 01/11-01/25] Order following notification of Prosecution request ICC-01/11-01/15-31-US-Exp and 31-Conf-Red, 5 December 2025 at 16:13.

⁴¹ Registry's Observations on "Prosecution's further request for contact restrictions pursuant to regulation 101(2) of the Regulations of the Court", 4 December 2025, ICC-01/11-01/25-31-US-Exp, ICC-01/11-01/25-36-US-Exp, paras 15-16, 18 (confidential redacted version filed on 9 December 2025).

⁴² Third Observations, para 17.

21. On the same day, following the Registry's request, the Chamber clarified its instructions regarding the creation of the contact list and amended the procedure communicated in its email order of 1 December 2025.⁴³

22. On 11 December 2025, the Defence sought access to the unredacted versions of the Requests and an extension of deadline to file a consolidated response to the Requests (the 'Defence Request').⁴⁴

23. On 12 December 2025, the Chamber instructed the Prosecution to provide explanations for the *ex parte* classification of the Requests by 15 December 2025. It further set a deadline for responses and observations on this matter, if any, by 16 December 2025.⁴⁵

24. On 15 December 2025, the Defence filed a consolidated response to the Requests (the 'Defence Response').⁴⁶ The Defence submits, *inter alia*, that 'there are no reasonable grounds to believe that Mr El Hishri intends to or will disseminate confidential information, or put the safety and security of victims, witnesses, and their families at risk', as Mr El Hishri is convinced that the Chamber will not confirm the charges and has no interest in unlawfully obstructing the proceedings.⁴⁷ The Defence further argues that Mr El Hishri and his family members 'need to be in much greater contact with each other than two short telephone calls per week' and '[p]reventing' him from speaking with his close family members is 'an unnecessary and disproportionate interference in his right to respect for family life'.⁴⁸ The Defence reports that, since his arrival at the ICC Detention Centre, he has only been able to speak with his mother, [REDACTED], and his wife, on one occasion each.⁴⁹

25. The Defence further avers that the proposed contact restrictions are 'disproportionate, not possible, or unworkable' in the following respects:⁵⁰

- (a) [REDACTED]; if the Prosecution is to be consulted about potential contacts, it would be reasonable to order that any input from the Prosecution must be given within 24

⁴³ Email from the Chamber, [Confidential] Order to the Registry to provisionally implement contact restrictions, 1 December 2025 at 19:37; Email from the Chamber, [01/11-01/25 - Confidential] Clarification regarding prior order on contact restrictions, 9 December 2025 at 9:59.

⁴⁴ Defence motion for access to unredacted versions of pending requests regarding contact restrictions, ICC-01/11-01/25-37-Conf.

⁴⁵ Email from the Chamber, [Confidential - 01/11/01/25] Order following notification of Defence Motion ICC-01/11-01/25-37-Conf, 11 December 2025 at 14:51.

⁴⁶ Defence preliminary consolidated response to Prosecution requests regarding contact restrictions, ICC-01/11-01/25-39-Conf.

⁴⁷ Defence Response, paras 26-27.

⁴⁸ Defence Response, paras 28-35.

⁴⁹ Defence Response, paras 28-29.

⁵⁰ Defence Response, para. 36. *See also* Defence Response, para. 30.

hours, and only minimum personal information about Mr El Hishri's contact could be shared to the Prosecution, and only after the Defence is given an opportunity to submit its views;

- (b) The limitation of communication to Standard Arabic and the prohibition of the use of using obscure, slang, or coded language is unworkable, as Mr El Hishri uses 'Arabic spoken in Libya' and innocent family discussion could be interpreted as being obscure or coded;
- (c) The Prosecution is inconsistent in its request, seeking a complete prohibition on discussions concerning cases or potential witnesses in one paragraph and seeking a prohibition on discussions relating to confidential or protected request in another. The former is overbroad, disproportionate, and unworkable, as it would prohibit Mr El Hishri from talking about, *inter alia*, 'mundane matters such as dates and preparations for status conferences, and applications for provisional release';
- (d) The Registry's log of all non-privileged phone calls and visits must be first submitted to the Chamber, which would decide, after hearing from the Defence, whether the confidential details in the log can be shared by the Prosecution;
- (e) The Chamber should not depart from the standard practice regarding reporting suspected violations; and
- (f) The prohibition of the use of speaker phones is unreasonable, as Mr El Hishri and his family members, including his wife and [REDACTED] children, would like to engage in collective family discussions. Such a measure would also be difficult to police.

26. Also on 15 December 2025, the Prosecution filed an explanation of its *ex parte* classifications and responded to the Defence Request.⁵¹

27. On 18 December 2025, the Chamber instructed the Prosecution and the Registry to prepare and put lesser redacted versions of their relevant filings on the record by 22 December 2025, set the deadline for any supplementary Defence submissions in response to pending

⁵¹ Prosecution explanations for the factual and legal basis of *ex parte* classifications, provided pursuant to the Pre-Trial Chamber's instruction, and response to Defence motion for access to unredacted versions of pending requests regarding contact restrictions, ICC-01/11-01/25-40-Conf-Exp (confidential redacted version filed on the same day).

contact restriction requests to seven working days after the notification of the lesser redacted versions of filings, and ordered the Registry to reclassify certain filings.⁵²

28. Between 18 and 19 December 2025, the above-mentioned reclassifications were effected.

29. On 13 January 2026, the Defence belatedly filed its response to the Further Request (the ‘Defence Additional Response’), stating that the request should be dismissed *in limine* as ‘[t]here is no material difference between the relief sought in the Further Request and the relief held to be “moot” in the Amended Second Request’.⁵³ It further avers that ‘the risks identified by the Prosecution seeking to justify the Second Request are speculative and too remote’, as the Prosecution has not offered any evidence supporting the allegation that Arabic-speaking co-detainees [REDACTED].⁵⁴ As such, the Defence submits that the Second Request is neither justified, necessary nor proportionate, and should therefore be dismissed.⁵⁵

II. Determination

A. Request to vary the time limit

30. As a preliminary matter, the Chamber notes that the Defence has submitted its request to vary the time limit after the prescribed deadline had lapsed. Therefore, the Chamber will first assess whether the Applicant has demonstrated that it was unable to file the application in a timely manner for reasons outside of its control, including, *inter alia*, an inability to carry out one’s duties due to technical problems,⁵⁶ as required by regulation 35(2) of the Regulations and the Court’s established jurisprudence.

31. Defence Counsel had submitted to the Chamber that he was unable to file the request for the variation of time and the Defence Additional Response in a timely manner due to being appointed recently and having experienced technical problems accessing documents during the relevant period. While the Chamber expects deadlines to be respected at all times, the Chamber considers that the aforementioned circumstances were, at least in part, beyond the control of the Defence Counsel. Having had further regard to the profound impact of this matter on the

⁵² Decision on Defence Motion for access to unredacted versions of pending requests regarding contact restrictions, ICC-01/11-01/25-44-Conf.

⁵³ Defence Response to Prosecution Second Request for Contact Restrictions, 13 January 2026, ICC-01/11-01/25-52-Conf, para. 27. The Defence avers that the delay in filing the Defence Additional Response was caused by technical difficulties, the inability for counsel to receive instructions from Mr El Hishri, and to clarify whether any part of the Second Request had been provisionally granted and sought a variation of the prescribed time limits. Defence Additional Response, paras 6-10.

⁵⁴ Defence Additional Response, paras 28-36.

⁵⁵ Defence Additional Response, paras 28, 37-38.

⁵⁶ Appeals Chamber, *The Prosecutor v. Thomas Lubanga Dyilo*, [Decision on the request for an extension of time filed by the Legal Representatives of Victims V02](#), 7 February 2013, ICC-01/04-01/06-2975, para. 5.

rights of Mr El Hishri, the Chamber grants the request for the variation of time on an exceptional basis and has thus considered the submissions contained in the Defence Additional Response in issuing the present decision.

B. Requests for contact restrictions

32. The Chamber notes articles 21(1)(a), (b), and (3), 57(3)(a) and 68(1) of the Rome Statute (the ‘Statute’), regulations 97, 98, 99(1)(i) and 101 of the Regulations, and regulations 169, 173, 175, and 202 of the RoR.

33. In particular, article 57(3)(a) of the Statute specifies that ‘the Pre-Trial Chamber may [...] [a]t the request of the Prosecutor, issue such orders and warrants as may be required for the purposes of an investigation’. In addition, regulation 101 of the Regulations provides, in relevant part, that:

2. The Prosecutor may request the Chamber seized of the case to prohibit, regulate or set conditions for contact between a detained person and any other person, with the exception of counsel, if the Prosecutor has reasonable grounds to believe that such contact:

- (a) Is for the purposes of attempting to arrange the escape of a detained person from the detention centre;
- (b) Could prejudice or otherwise affect the outcome of the proceedings against a detained person, or any other investigation;
- (c) Could be harmful to a detained person or any other person;
- (d) Could be used by a detained person to breach an order for non-disclosure made by a judge;
- (e) Is against the interests of public safety; or
- (f) Is a threat to the protection of the rights and freedom of any person.

3. The detained person shall be informed of the Prosecutor’s request and shall be given the opportunity to be heard or to submit his or her views. In exceptional circumstances such as in an emergency, an order may be made prior to the detained person being informed of the request. In such a case, the detained person shall, as soon as practicable, be informed and shall be given the opportunity to be heard or to submit his or her views.

34. According to the Court’s jurisprudence, contact restrictions are preventive in nature, and any contact restrictions must be necessary, *inter alia*, for the prevention of disorder and crime and the protection of the rights and freedom of others; proportionate to the legitimate aim pursued; and in accordance with the law.⁵⁷ Reasons for such restrictions must be provided to

⁵⁷ Trial Chamber VI, *The Prosecutor v. Bosco Ntaganda*, [Decision on Prosecution requests to impose restrictions on Mr Ntaganda's contacts](#), 18 August 2015, ICC-01/04-02/06-785-Red, para. 42.

the detained person.⁵⁸ The Appeals Chamber has repeatedly held that, while contact restrictions are necessary for the purpose of preserving the integrity of the proceedings, the said necessity must be ‘weighed against the accused’s right to privacy and family life’.⁵⁹

A. The First Request

35. After a careful analysis of the submissions received, the Chamber finds reasonable grounds to believe that allowing Mr El Hishri unrestricted contacts with other persons could prejudice or otherwise affect the outcome of the proceedings against him, [REDACTED]. The Chamber notes, in this regard, that material submitted by the Prosecution points to Mr El Hishri,⁶⁰ his associates, and members of SDF/RADA having a history⁶¹ of, and the current capability⁶² to, surveil, interfere, contact, and eventually intimidate actual, potential, or perceived witnesses, victims, and collaborators with the Court. The continuation of alleged witness interferences and other forms of evidence tampering or concealment⁶³ would greatly undermine the integrity of the proceedings and significantly affect the outcome of the proceedings against Mr El Hishri and [REDACTED].⁶⁴

36. Relatedly, the Chamber finds reasonable grounds to believe that allowing such contact would also threaten the safety and security of victims, actual and potential witnesses, and their families. While Mr El Hishri has and will continue to gain access to information concerning the witnesses’ identity and statements in the course of the proceedings, [REDACTED].⁶⁵ The

⁵⁸ Appeals Chamber, *The Prosecutor v. Mahamat Said Abdel Kani*, [Judgment on the appeal of Mr Mahamat Said Abdel Kani against the decision of Pre-Trial Chamber II entitled ‘Decision on the “Prosecution’s Request for Extension of Contact Restrictions”’](#), 29 June 2021, ICC-01/14-01/21-111-Conf-Red (public redacted version filed on 17 May 2022), paras 49, 66.

⁵⁹ *The Prosecutor v. Alfred Yekatom and Patrice-Édouard Ngaïssona*, [Decision on fourteenth Registry report on the implementation of the restrictions on contacts of Mr Ngaïssona](#), ICC-01/14-01/18-2872, 5 February 2026, para.13, citing Appeals Chamber, *The Prosecutor v. Bosco Ntaganda*, [Judgment on Mr Bosco Ntaganda’s appeal against the decision reviewing restrictions on contacts of 7 September 2016](#), 8 March 2017, ICC-01/04-02/06-1817-Conf, para. 101 (public redacted version filed on the same day, ICC-01/04-02/06-1817 Red).

⁶⁰ At least until the arrest, Mr El Hishri also appears to have had some authority and influence over SDF/RADA. LBY-OTP-00057775; LBY-OTP-00420480. See Second Request, paras 9, 13. [REDACTED]. First Request, para. 19; [REDACTED].

⁶¹ LBY-OTP-00022508 p.1; LBY-OTP-0073-0025, para. 38; LBY-OTP-0070-6952, para. 124; LBY-OTP-00001491, paras. 132-134; LBY-OTP-0080-0169, paras. 259-260; LBY-OTP-00022662; LBY-OTP-00057815, p. 2; LBY-OTP-00022625. See First Request, paras 17-22; Second Request, paras 9-10. See also, Amended Request, para. 4.

⁶² LBY-OTP-00022511 pp. 1-2; LBY-OTP-00022508 p.1; LBY-OTP-00019245, paras 82-83; LBY-OTP-0075-0243, paras 14-33; LBY-OTP-00018577 pp.2-3. See LBY-OTP-00393728; LBY-OTP-00393710. See LBY-OTP-00393715, pp. 6-7. see First Request, paras 11-16; Second Request, paras 6-8,

⁶³ LBY-OTP-0083-0052, paras. 74, 113; LBY-OTP-00020099, paras. 37-38; LBY-OTP-0080-0032, para. 98; LBY-OTP-00015360, paras. 105-112; LBY-OTP-00015420, para. 33; 47; LBY-OTP-0073-0025, para. 35; LBY-OTP-00015360, para. 125; LBY-OTP-00393682; LBY-OTP-00393681; LBY-OTP-00022788. See LBY-OTP-00420407. See First Request, para. 20; Second Request, para. 10.

⁶⁴ [REDACTED]. LBY-OTP-00022504.

⁶⁵ First Request, paras 4, 9.

security situation in Libya remains precarious.⁶⁶ By restricting Mr El Hishri's communication with persons outside the Detention Centre to contacts to those who do not pose a risk to victims and witnesses and actively monitoring non-privileged calls, visits, and correspondence so that he does not discuss the case or witnesses, the threat to the security, security and well-being of the aforementioned category of persons will likely be reduced.

37. The Chamber notes that, although the Registry has so far not reported any violations of the provisional contact restrictions to the Chamber, such may reflect the effectiveness of the existing safeguards, rather than the disappearance of the risks that justified their imposition.⁶⁷ Taking into account the preventive nature of contact restrictions and Mr El Hishri's past conduct, compliance with restrictions at the Detention Centre does not necessarily establish that the underlying risks have dissipated.⁶⁸ Weighing the importance of preserving the integrity of the proceedings, including the protection of witnesses and victims in light of the past conduct of Mr El Hishri and his associates and their current capability to interfere with witnesses against the accused's right to privacy and family life, the Chamber considers that the restrictions enlisted below do not constitute an undue interference with the latter.

38. Taking into account the Defence's concerns as submitted in the Defence Response and the Registry's submissions regarding the applicable law, its standard procedures and the practical feasibility of the Prosecution's proposed restrictions, the Chamber imposes the following restrictions on Mr El Hishri's contact with individuals outside the Detention Centre:

- (i) **Prohibition on case-related discussions:** The Chamber prohibits Mr El Hishri from having any discussion related to the case, particularly matters concerning actual or potential witnesses, whether over telephone calls, in written correspondence, or during visits, other than with duly appointed counsel, except for the purpose of updating immediate family members on dates and preparations for upcoming hearings and possible provisional release. The Registry is instructed to inform those authorised to communicate with the suspect that they may not

⁶⁶ First Report of the Registry on the Security and the Political situation in the State of Libya, 22 January 2026, ICC-01/11-01/25-56-Conf-Anx1, 22 January 2026, paras 7-18, 45-47; Remarks of the Special Representative of the Secretary-General for Libya, Hanna S. Tetteh, to the Security Council on the Situation in Libya, 14 October 2025, LBY-OTP-00420472, pp. 3-4 See First Request, paras 11-22; Second Request, paras 6-14 ; Amended Request, para. 4.

⁶⁷ *The Prosecutor v. Alfred Yekatom and Patrice-Édouard Ngaïssona*, [Decision on fourteenth Registry report on the implementation of the restrictions on contacts of Mr Ngaïssona](#), ICC-01/14-01/18-2872, 5 February 2026, para.15.

⁶⁸ *The Prosecutor v. Alfred Yekatom and Patrice-Édouard Ngaïssona*, [Decision on fourteenth Registry report on the implementation of the restrictions on contacts of Mr Ngaïssona](#), ICC-01/14-01/18-2872, 5 February 2026, para.15.

discuss matters related to the case, share or receive confidential or protected information pertaining to the ICC case against him, speak in code or deliberately lower their voices to conceal what they are saying, or record the conversation or give access to the communication to any third party;

(ii) **Restrictions on non-privileged visits, telephone calls, and correspondences:**

The Chamber limits such communications to a restricted number of persons, with the exception of duly appointed counsel and diplomatic or consular assistance under regulations 97 and 98 of the Regulations. [REDACTED]⁶⁹ The authorized persons must be [REDACTED].⁷⁰ The Registry shall maintain a log of all non-privileged telephone calls and visits with Mr El Hishri, including names, times, dates, and duration of telephone calls, correspondence, and visits. The Prosecution may request the Chamber to grant access to the log pursuant to Regulation 92(3) of the Regulations. The Chamber will duly consider such request in accordance with Regulation 92(4) of the Regulations;

(iii) **Languages:** All non-privileged communications must be in either Standard or Libyan Arabic.⁷¹ Obscure or coded language aimed at bypassing or violating the ordered measures may not be used. If this instruction results in unduly limiting Mr El Hishri's right to respect for family life, the Defence may raise such concerns with the Registry and, as necessary, with the Chamber;

(iv) **Restrictions on the use of speakerphones and prohibition of recordings:** The Chamber instructs the Registry to ensure that no unannounced or unauthorised individual participates in a call with Mr El Hishri, passively or actively listens to calls with Mr El Hishri, or otherwise receives or obtains the content of calls with Mr El Hishri aurally or textually. For this reason, the Chamber prohibits the use of speakerphone and the audio or video recording of any calls with Mr El Hishri, unless the Registry specifically authorises the use of speakerphone for any given call for the purpose of facilitating communications with his family members;

⁶⁹ Email from the Chamber, [Confidential] Order to the Registry to provisionally implement contact restrictions. 1 December 2025 at 19:37; Email from the Chamber, [01/11-01/25 - Confidential] Clarification regarding prior order on contact restrictions, 9 December 2025 at 9:59.

⁷⁰ Having considered the Registry's submissions in paragraphs 8-11 of its First Observations, the Prosecution's request for [REDACTED], included in paragraph 27 of its First Request, is [REDACTED]. The Chamber considers that [REDACTED] is sufficient to ensure compliance with the prescribed contact restrictions.

⁷¹ The Chamber understands that the Registry has the capacity to actively monitor, at least some, conversations in Libyan Arabic.

- (v) **Active monitoring of non-privileged telephone calls:** The Chamber instructs the Registry to order the Chief Custody Officer to actively monitor all non-privileged telephone calls with Mr El Hishri. The person in charge of monitoring must immediately end conversations when restrictions are believed to be violated and advise the Defence of the reason for doing so;
- (vi) **Correspondence:** Instruct the Chief Custody Officer to continue reviewing all correspondence to and from Mr El Hishri and intercept and confiscate correspondence when restrictions are believed to be violated;
- (vii) **Non-privileged visits:** The Chamber instructs the Registry to ensure that Mr El Hishri does not enter the visitation area with documents or materials pertaining to the ICC case against him and visitation areas are devoid of music or loud noise that may impair hearing. The Detention Centre staff is to be within hearing and sight of non-privileged visits with El Hishri and must immediately end conversations when restrictions are believed to be violated and advise the Defence of the reason for doing so; and
- (viii) **Violations:** The Registry is to inform the Chamber whenever restrictions are not respected. The Chamber will seek input from the Defence and determine whether to grant access to the Prosecution and whether redactions are necessary.

39. Having considered the Registry's observations regarding its current operational capacity,⁷² the Chamber instructs the Registry to liaise with the Defence to determine the specific timetable for calls and visits it can accommodate in accordance with the restrictions and conditions specified above.⁷³ Should the Defence so request, the Chamber instructs the Registry to consider allowing the use of speakerphones, video calls, or both, to enable family discussions, if such could be done without increasing the risk of non-compliance with the restrictions and conditions. Should the Registry become unable to accommodate, at a minimum, a total of five hours of monitored non-privileged telephone calls and visits per week, during at least three weekly sessions, it shall report to the Chamber for further guidance.

B. The Second Request, the Amended Request, and the Defence request for dismissal *in limine*

⁷² First Observations, paras 22-24.

⁷³ The Chamber considers that imposing an additional limitation on the duration of non-privileged calls and visits is not necessary to give effect to the other restrictions adopted. *Contra* First Request, para. 28(a).

40. In its First Decision, the Chamber dismissed the Second Request with reasons to follow.⁷⁴ The reason for the dismissal at that juncture was that the Registry had indicated not being capable of implementing the requested measures.⁷⁵ The Chamber recalls that, when issuing this ruling, it further invited the Prosecution to liaise with the Registry to identify any feasible measures, should it wish to come forward with an amended request.

41. The Defence avers that the Further Request must be dismissed *in limine*, as ‘[t]here is no material difference between the relief sought in the Further Request and the relief held to be “moot” in the Amended Second Request.’ Although the Chamber notes the similarity between the Amended and Further Requests, considering that the Registry has, in the meantime, informed the Chamber that [REDACTED] it has become capable of accommodating the Further Request, the Chamber considers it appropriate to address the Second Request on the merits and accordingly declines to dismiss the Further Request *in limine*.

C. The Further Request

42. The Prosecution requests the Chamber to order the Registry to implement a detention regime under which Mr El Hishri will be separated from Arabic-speaking detainees.⁷⁶

43. The Chamber notes the Prosecution’s submissions regarding 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 as described in paragraphs 35 and 36 above. In light of the above, and particularly considering the reports that [REDACTED],⁷⁷ the Chamber considers that the proposed measure, although restrictive, strikes the appropriate balance between the rights of the detained person and the absolute necessity to avoid any obstruction to the conduct of the proceedings and to protect the witnesses and their close relations from any potential pressure or act of intimidation.⁷⁸

⁷⁴ First Decision, para. 6.

⁷⁵ Second Observations, para. 9.

⁷⁶ Further Request, para. 6.

⁷⁷ First Request, para. 19; [REDACTED].

⁷⁸ See *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, [Decision on Request 1200 of the Prosecutor for Prohibition and Restrictive Measures Against Mathieu Ngudjolo with Respect to Contacts Both Outside and Inside the Detention Centre](#), ICC-01/04-01/07-1243-Conf-Exp-tENG, 24 June 2009 (public redacted version filed 13 February 2015), para 35.

44. For the same reasons, the Chamber is persuaded that such measure is necessary and proportionate to the legitimate aim sought and do not constitute an undue interference with Mr El Hishri's right to privacy and family life.

45. In light of the foregoing, the Chamber grants the Further Request and instructs the Registry to implement a detention regime where Mr El Hishri will be held separately from other Arabic-speaking detainees.

D. Review

46. The Chamber grants the Prosecution's requests that the aforementioned contact restrictions be imposed until the decision on the confirmation of charges is rendered. The Registry shall immediately inform the Chamber and the Defence, on an *ex parte* basis, of any violation of the aforementioned contact restrictions. Should there arise a compelling reason to modify the restrictions, the Chamber shall review the matter as soon as practicable upon the request of the parties or the Registry.

47. To enable the Chamber to conduct, if necessary, a review of the contact restrictions imposed by the present decision, the Chamber sets the following time limits pursuant to regulation 34 of the Regulations. The Registry shall submit a report, including a redacted version thereof if necessary, on the implementation of these restrictions and any related developments by no later than 2 April 2026. The Prosecution shall submit a reasoned request to maintain the contact restrictions, if warranted, by no later than 13 April 2026. The request should include an updated assessment of specifically identified risks to current and potential witnesses, [REDACTED], and the proceedings as a whole. The Defence shall submit a response to the Prosecution's request, if any, by no later than 17 April 2026.

48. In addition to the above, and having due regard to the particularly restrictive nature of the said measure, the Defence may submit a request for a review of the detention regime separating Mr El Hishri from other Arabic-speaking detainees 30 days after the issuance of this Decision or later.

FOR THESE REASONS, THE CHAMBER HEREBY

PUTS ON THE RECORD its reasons for issuing the First Decision on Contact Restrictions;

GRANTS the Defence request to vary the time limit for the filing of the Defence Additional Response;

GRANTS the First Request in part, as described in paragraph 38 above;

GRANTS the Further Request;

INSTRUCTS the Registry to immediately make the necessary arrangements to implement the present decision and to put in place the contact restrictions as specified in the present decision until the decision on the confirmation of charges is rendered;

INSTRUCTS the Registry to immediately inform the Chamber of any violation of the contact restrictions imposed by means of the present decision and to submit a report on the implementation of such restrictions by no later than 2 April 2026; and

ORDERS 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.

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 Tuesday, 23 June 2026

At The Hague, The Netherlands