

**Cour
Pénale
Internationale**



**International
Criminal
Court**

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

Date: 26 June 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, VWU and Detention
Section Annex 1 and
Confidential Annex 2**

**Public redacted version of "Prosecution's request to maintain the existing contact
restrictions until the commencement of trial and to grant additional measures",
ICC-01/11-01/25-137, 22 June 2026**

Source: Office of the Prosecutor

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A. INTRODUCTION

1. On 13 May 2026, the Chamber granted the Prosecution's request to maintain existing contact restrictions until the issuance of the confirmation of charges decision and *inter alia* ordered the Prosecution to submit a request to maintain the contact restrictions, if warranted, by no later than 22 June 2026.¹ The Prosecution respectfully requests that Pre-Trial Chamber I (the "Chamber") orders the Registry to maintain in full the existing contact restrictions until the commencement of trial, subject to a periodic review. The Prosecution further requests that the Chamber grants the Victims and Witnesses Unit ("VWU") access to all recordings of Mr EL HISHRI's telephone conversations (past and future) for VWU review and orders the Registry to immediately notify the VWU of any breach of the contact restrictions.

2. The existing contact restrictions remain necessary and proportionate as the factual basis justifying their imposition has not changed and the risks that the measures address are even more pronounced in the phase leading to trial. In light of these heightened risks, additional measures are both necessary and proportionate. In particular, VWU access to all recordings of Mr EL HISHRI's phone conversations for retroactive and ongoing review is necessary and proportionate in these circumstances to enhance the efficiency of the active monitoring in detecting breaches. Similarly, ordering the Registry to immediately inform the VWU of any breach detected during the active monitoring by the Detention Centre staff is necessary and proportionate in light of the materially elevated risks, and in order to enable VWU to act swiftly and take appropriate protective measures before any harm can materialise.

B. CONFIDENTIALITY

3. This request and its annexes 1 and 2 are filed as Confidential and *ex parte*, only available to the Prosecution 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.

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

¹ ICC-01/11-01/25-118-Conf ("Third Decision on Contact Restrictions").

C. PROCEDURAL HISTORY

5. On 16 July 2025, authorities of the Federal Republic of Germany arrested Mr EL HISHRI pursuant to a warrant of arrest issued against him by the Chamber on 10 July 2025.²

6. On 4 August 2025, the Prosecution requested measures to restrict Mr EL HISHRI's communications from the Detention Centre in The Hague with individuals outside the Detention Centre, to be implemented immediately upon his surrender to the International Criminal Court ("ICC" or the "Court"),³ which the Chamber granted on an *interim* basis on 1 December 2025.⁴

7. On 31 October 2025, the Prosecution submitted a second request for restrictions between Mr EL HISHRI and his co-detainees.⁵ On 26 November 2025, the Chamber informed the Prosecution of its decision to dismiss the Prosecution's Second Request.⁶

8. Following the Chamber's invitation,⁷ the Prosecution amended its Second Request for Contact Restrictions on 1 December 2025⁸ and again on 4 December 2025 to separate Mr EL HISHRI from other Arabic-speaking detainees.⁹ On 20 February 2026, the Chamber granted the Prosecution's First Request to restrict Mr EL HISHRI's communications from the Detention Centre in The Hague with individuals outside the Detention Centre in part and the Prosecution's Further Request to separate Mr EL HISHRI from other Arabic-speaking detainees¹⁰ and *inter alia* ordered the Prosecution to submit a reasoned request to maintain the contact restrictions, if warranted, by no later than 13 April 2026.¹¹

9. On 13 April 2026, the Prosecution submitted a request to maintain the existing contact restrictions until the issuance of the confirmation decision.¹² On 13 May 2026, the Chamber

² ICC-01/11-188.

³ ICC-01/11-01/25-16-US-Exp ("First Request for Contact Restrictions"), a confidential redacted version was filed on 3 December 2025, *see* ICC-01/11-01/25-16-Conf-Red.

⁴ *See* ICC-01/11-01/25-54-Conf-Anx9. *See also* First Request for Contact Restrictions, paras. 27-28; ICC-01/11-01/25-54-Conf-Anx16.

⁵ ICC-01/11-01/25-21-US-Exp ("Second Request for Contact Restrictions"), a confidential redacted version was filed on 3 December 2025, *see* ICC-01/11-01/25-21-Conf-Red.

⁶ ICC-01/11-01/24-Conf ("First Decision on Contact Restrictions").

⁷ First Decision on Contact Restrictions, para. 7.

⁸ ICC-01/11-01/25-25-US-Exp ("Amended Second Request for Contact Restrictions"), a confidential redacted version was filed on 4 December 2025, *see* ICC-01/11-01/25-25-Conf-Red.

⁹ ICC-01/11-01/25-31-Conf ("Further Request for Contact Restrictions").

¹⁰ ICC-01/11-01/25-70-Conf-Exp-Corr ("Second Decision on Contact Restrictions"), paras. 38, 45 and p. 20 ("existing contact restrictions"), a confidential redacted version as filed on 20 February 2026, *see* ICC-01/11-01/25-70-Conf-Exp-Corr.

¹¹ Second Decision on Contact Restrictions, para. 47 and p. 20.

¹² ICC-01/11-01/25-103-Conf-Exp ("Request to Maintain Contact Restrictions"), a confidential redacted version was filed on 14 April 2026, *see* ICC-01/11-01/25-103-Conf-Red.

granted the Prosecution's request to maintain the existing contact restrictions until the issuance of the confirmation of charges decision and *inter alia* ordered the Prosecution to submit a request to maintain the contact restrictions, if warranted, by no later than 22 June 2026.¹³

D. SUBMISSIONS

10. The Prosecution requests that (1) the Chamber maintains the existing contact restrictions until the commencement of trial; and (2) orders additional measures to prevent Mr EL HISHRI from sharing confidential information through his non-privileged contacts or Arabic-speaking co-detainees and to ensure that any breaches are detected and can be managed without delay. These measures are justified and proportionate to safeguard the safety and security of victims, (potential and perceived) witnesses and their families as well as the integrity of the proceedings at the Court, including [REDACTED].

11. As set out previously,¹⁴ and reiterated by the Chamber,¹⁵ the Court's established jurisprudence provides that contact restrictions adopted under regulation 101(2) of the RoC are preventive in nature, and "must be necessary, *inter alia*, for the prevention of disorder and crime and protection of the rights and freedoms of others; proportionate to the legitimate aim pursued; and in accordance with the law".¹⁶

1. The existing contact restrictions remain necessary and proportionate to safeguard the integrity of the proceedings and the safety and security of victims, witnesses, and their families

12. The existing contact restrictions remain necessary and proportionate beyond the issuance of the confirmation of charges decisions, as (i) the factual basis justifying their imposition remains fully intact and (ii) the risks they seek to address are even more pronounced in the phase leading to trial.

¹³ Third Decision on Contact Restrictions, paras. 15, 16 and p. 7.

¹⁴ First Request for Contact Restrictions, para. 8; Second Request for Contact Restrictions, para. 16; Request to Maintain Contact Restrictions, para. 6.

¹⁵ Second Decision on Contact Restrictions, para. 34. *See also* Third Decision on Contact Restrictions, paras. 13, 15.

¹⁶ ICC-01/04-01/07-1243-tENG-Red ("Katanga & Ngudjolo Chui Decision on Contact Restrictions"), para. 19 citing European Court of Human Rights ("ECtHR"), *Messina v. Italy*, Appl. no. 25498/94, "Judgment", 28 September 2000; *Lavents v. Latvia*, Appl. no. 58442/00, "Judgment", 28 November 2002; *Van der Ven v. The Netherlands*, Appl. No. 50901/99, "Judgment", 4 February 2003; *Kornakovs v. Latvia*, Appl. No. 61005/00, "Judgment", 15 June 2006; *Moiseyev v. Russia*, Appl. No. 62936/00, "Judgment", 9 October 2008. *See also, e.g.*, ECtHR, *Lorsé and other v. The Netherlands*, Appl. no. 52750/99, "Judgment", 4 February 2003, paras. 82-86; *Kanalas v Romania*, Appl. no. 20323/14, "Judgment", 6 December 2016, paras. 53-55.

13. First, the factual basis justifying the imposition of the existing contact restrictions remains fully intact. When extending the existing measures, the Chamber found that “the potential and perceived Prosecution witnesses, as well as their families, continue to face concrete and genuine risks to their safety”.¹⁷ These risks have not diminished. Since the Prosecution’s Request to Maintain Contact Restrictions, filed on 13 April 2026,¹⁸ the Prosecution has been informed of [REDACTED], demonstrating that SDF/RADA maintains both the capability and motivation to identify and intimidate victims and (potential and perceived) witnesses and their families:

- a. [REDACTED]. [REDACTED].¹⁹ [REDACTED].²⁰
- b. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].²¹ [REDACTED]. [REDACTED].²² [REDACTED].²³ [REDACTED].²⁴
- c. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].²⁵
- d. [REDACTED].²⁶ P[REDACTED]²⁷ [REDACTED]²⁸ [REDACTED]²⁹ [REDACTED].³⁰ [REDACTED].³¹

14. [REDACTED] and underscores that victims and (potential or perceived) witnesses as well as their families continue to face concrete and genuine risks to their safety.

15. In addition to [REDACTED], publicly available information indicates that SDF/RADA retains territorial control over certain parts of Tripoli and actively employs intimidation tactics against its residents, further underscoring its operational reach and capacity to exert pressure within its areas of influence. A social media post by Libya News dated 10 June 2026 reports that sources amongst the residents of Ain Zara stated that SDF/RADA is conducting nightly checkpoints, inspecting mobile phones and carrying out patrols with unmarked vehicles across

¹⁷ Third Decision on Contact Restrictions, para. 12.

¹⁸ Request to Maintain Contact Restrictions.

¹⁹ Annex 1, p. 1.

²⁰ [REDACTED].

²¹ Annex 1, pp. 2-3.

²² Annex 1, p. 4.

²³ See e.g. [REDACTED]. See also [REDACTED].

²⁴ [REDACTED].

²⁵ Annex 1, pp. 5-6.

²⁶ [REDACTED].

²⁷ Annex 1, pp. 7-10, 13-14.

²⁸ Annex 1, pp. 7, 11-12.

²⁹ Annex 1, pp. 7-8, 15-16.

³⁰ Annex 1, p. 7.

³¹ [REDACTED].

multiple locations in Ain Zara area in Tripoli. These activities reportedly generated a climate of fear and anxiety among locals.³² They are also consistent with SDF/RADA's established methods of surveillance, control, and intimidation, and demonstrates its ability to identify, monitor, and potentially target individuals within territory under its influence.³³

16. Furthermore, [REDACTED], underscoring the necessity of maintaining robust preventative measures to protect witnesses. As set out in the Registry Report on Security and Political Situation in the State of Libya of 4 May 2026, [REDACTED].³⁴ [REDACTED].³⁵ [REDACTED].

17. In addition, hostility towards the Court and its witnesses within at least certain segments of Libyan society aggravates the risk of intimidation and exposure. During the confirmation hearing, hostile and threatening posts directed at the Court and those cooperating with it proliferated on social media. This demonstrates that segments of the public are willing to denounce, expose, or intimidate perceived witnesses, thereby increasing the likelihood that they may be identified and targeted—including by SDF/RADA or its sympathisers. The Prosecution identified posts that curse the Court and “those who support them”, label those who support or cooperate with it as illegal migrants, liars, and criminals.³⁶ While it is not possible to conclusively attribute these posts to any individual or establish their connection to Mr EL HISHRI or SDF/RADA, they, at minimum, demonstrate the existence of anti-ICC and anti-witness sentiment within certain segments of Libyan society. This climate of hostility coupled with anti-ICC social media activity significantly heightens the risks to Prosecution witnesses by facilitating their exposure and stigmatisation, encouraging third-party interference, and lowering barriers to acts of intimidation or violence.

18. Moreover, the absence of reported violations of the existing contact restrictions to date³⁷ does not indicate that the underlying risks have diminished. As the Chamber repeatedly

³² Annex 2, pp. 1-2.

³³ See e.g. First Request for Contact Restrictions, paras. 17[REDACTED]; [REDACTED]; Regulation 35 Application, paras. 22[REDACTED]; ICC-01/11-01/25-55-Conf-Exp (“First Request for Non-Disclosure of Identity”), paras. 12-13, [REDACTED], a confidential redacted version 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”), paras. 21[REDACTED], a confidential redacted version was filed on 29 January 2026, see ICC-01/11-01/25-58-Conf-Red; Third Request for Non-Disclosure of Identity, paras. 13-14, 16[REDACTED]; Fourth Request for Non-Disclosure of Identity, paras. 12-13, 15[REDACTED]; Fifth Request for Non-Disclosure of Identity, paras. 14-15, 17[REDACTED]; Request to Maintain Contact Restrictions, paras. [REDACTED]9. See also Second Decision on Contact Restrictions, para. 35; Third Decision on Contact Restrictions, para. 12.

³⁴ [REDACTED].

³⁵ [REDACTED].

³⁶ Annex 2, pp. 3-13.

³⁷ [REDACTED].

recognised, the lack of detected violations may be attributable to the preventative function of the restrictions themselves and cannot be interpreted as evidence that the risk of interference has abated.³⁸ [REDACTED].³⁹ Although the existence of a causal link between [REDACTED], the sequence of events nevertheless illustrates a concrete and ongoing risk that information disclosed to Mr EL HISHRI may be transmitted to SDF/RADA actors, particularly in the absence of robust contact restrictions. It further demonstrates the real likelihood that SDF/RADA will act upon such information to locate, intimidate, or otherwise target (potential and perceived) witnesses and their relatives, thereby seriously endangering their safety and undermining the integrity of the proceedings. Accordingly, robust contact restrictions remain essential to mitigate interference, safeguard witnesses, and preserve the integrity of the proceedings.

19. Second, the risk to the integrity of the proceedings and the safety and security of victims, witnesses, and their families intensifies at the trial stage and is likely to escalate in line with [REDACTED]. [REDACTED]. [REDACTED]: [REDACTED],⁴⁰ [REDACTED]. [REDACTED]⁴¹ does not signal any diminution of risk. Rather, it is fully consistent with the group's demonstrated *modus operandi* of strategically calibrating interference around critical procedural stages. This pattern strongly suggests that SDF/RADA will escalate its interference campaign in the lead-up to the commencement of trial, where the stakes—and corresponding incentives to obstruct justice—are even higher.

20. The phase leading to trial further heightens the risk of interference as the identity of additional witnesses will be disclosed. At this stage of the proceedings, the Prosecution will be required to disclose the identity of witnesses whose identity was withheld during the confirmation of charges proceedings because of objectively justifiable risks to their physical and psychological well-being and/or their safety or that of their families.⁴² [REDACTED].⁴³ [REDACTED]. [REDACTED].⁴⁴ In these circumstances, and in the light of SDF/RADA's demonstrated capacity and intent to interfere, the existing contact restrictions remain necessary

³⁸ Second Decision on Contact Restrictions, para. 37; Third Decision on Contact Restrictions, para. 13.

³⁹ See para. 13(d) above.

⁴⁰ Request to Maintain Contact Restrictions, paras. 8, 12. See also [REDACTED].

⁴¹ See para. 13 above.

⁴² First Decision on Non-Disclosure, para. 64; ICC-01/11-01/25-99-Conf-Red, para. 31; ICC-01/11-01/25-100-Conf-Red, para. 23; ICC-01/11-01/25-101-Conf-Red, para. 35.

⁴³ See e.g. [REDACTED].

⁴⁴ See e.g. [REDACTED].

to mitigate risks to victims, (perceived and potential) witnesses and their families and the integrity of the proceedings.

2. Additional measures are necessary and proportionate to address the heightened risks in the phase leading to trial

21. In addition to the existing contact restrictions, the Prosecution requests that the Chamber grants VWU access to all recordings of Mr EL HISHRI's telephone conversations (past and future) for retroactive and ongoing analysis to enhance the efficiency of active monitoring in threat detection, and orders the Registry to immediately notify the VWU of any breach of the contact restrictions.

22. VWU access to Mr EL HISHRI's telephone recordings is necessary and proportionate to mitigate the heightened risks in the phase leading to trial. Such access materially enhances risk detection beyond the limits of real-time monitoring and thereby provides an essential additional safeguard to mitigate the heightened risks. Drawing on its specialised expertise and knowledge, VWU is better placed to conduct this analysis than Detention Centre staff. It can identify references to witnesses, including aliases, coded language, and patterns liable to escape contemporaneous detection. This additional layer of protection is critical in the phase leading to trial, when, as set out above,⁴⁵ the risks to victims, (potential and perceived) witnesses and their families are especially acute. These risks are further exacerbated by the extremely violent working practices of SDF/RADA.⁴⁶ At the same time, [REDACTED]. [REDACTED],⁴⁷ [REDACTED].⁴⁸ In these circumstances, VWU access to recordings for retroactive and ongoing analysis is necessary to mitigate the risks identified. [REDACTED].⁴⁹

23. The measure is also proportionate. It entails only a limited extension of access to the recordings to additional authorised personnel within the VWU,⁵⁰ who operate under a clearly defined and restricted mandate to protect victims and witnesses,⁵¹ and who form part of a neutral organ of the Court and are therefore bound to act impartially.⁵² In light of the aim pursued and

⁴⁵ See paras. 19-20 above.

⁴⁶ See e.g. ICC-01/11-01/25-94-Conf-Corr ("Pre-Confirmation Brief"), paras. 52-61, 68-72, 74, 78-80, 84; [REDACTED]. See also [REDACTED].

⁴⁷ See para. 20 above.

⁴⁸ See para. 16 above.

⁴⁹ [REDACTED].

⁵⁰ [REDACTED].

⁵¹ See articles 43(6) and 68(4) of the Statute; rules 17 and 18 of the Rules of Procedure and Evidence; regulations 79 to 96*bis* of the Regulations of the Registry.

⁵² See article 43(6) of the Statute.

the gravity of the risks involved, the impact on Mr EL HISHRI's right to privacy and family life is limited and remains justified.

24. Moreover, any breach detected by staff members of the Detention Centre during active monitoring should immediately be communicated to VWU, in addition to the Chamber.⁵³ This measure is necessary in light of Mr EL HISHRI's continued proximity to SDF/RADA through his family and the immediacy of the risks arising from any illegitimate disclosure, whether deliberate or in advertent. Several of Mr EL HISHRI's family members are part of SDF/RADA⁵⁴ and [REDACTED].⁵⁵ In these circumstances, any confidential information disclosed during authorised communications with family members may be swiftly transmitted to SDF/RADA through (other) family members that are part of the group. This dynamic, significantly elevates the risk that even seemingly minor, inadvertent disclosures could be immediately exploited to identify, locate, intimidate, or otherwise endanger witnesses. Considering these circumstances and the heightened risk levels in the phase leading to trial, immediate notification of any such breach directly by the Registry to VWU is indispensable to enable VWU to act swiftly and take appropriate protective measures before any harm can materialise.

E. CONCLUSION AND RELIEF SOUGHT

25. For the foregoing reasons, the Prosecution respectfully requests the Chamber to:

- (i) order the Registry to maintain the existing contact restrictions until the commencement of trial;
- (ii) grant VWU access to all recordings of Mr EL HISHRI's telephone conversations (past and future) for retroactive and ongoing analysis; and
- (iii) order Registry to immediately inform VWU of any breach of the contact restrictions in place.

⁵³ See Second Decision on Contact Restrictions, para. 38(viii).

⁵⁴ See Pre-Confirmation Brief, para. 160.

⁵⁵ See [REDACTED].



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Deputy Prosecutor

Dated this 26th day of June 2026

At The Hague, The Netherlands