



Original: English

No. ICC-01/11-01/25

Date: 16 July 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

Decision provisionally extending the measures under regulation 101(2) of the Regulations of the Court and granting additional measures

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 Section

☒ 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 the existing contact restrictions until the commencement of trial and to grant additional measures’ (the ‘Request’),¹ issues this decision pursuant to regulations 92(3) and 101(2) of the Regulations of the Court (the ‘Regulations’).

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’).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 a decision on contact restrictions (the ‘Second Decision on Contact Restrictions’) in which it granted the First Request in part and granted the Further Request.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 ‘First Registry Report on Contact Restrictions’), in which it stated that it had no concerns to report.⁵
5. On 13 April 2026, the Prosecution filed a 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’ (the ‘Request to Maintain the Contact Restrictions’).⁶
6. On 21 April 2026, the Defence filed its response opposing the Request to Maintain the Contact Restrictions.⁷

¹ 22 June 2026, [ICC-01/11-01/25-137-Conf-Exp](#) (public redacted version filed on 26 June 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 (public redacted version filed on 10 March 2026).

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 (public redacted version filed on 10 March 2026).

⁴ [Second Decision on Contact Restrictions](#), ICC-01/11-01/25-70-Conf-Exp-Corr (public redacted version filed on 23 June 2026).

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

⁶ [Prosecution’s request to maintain contact restrictions](#), ICC-01/11-01/25-103-Conf-Exp (public redacted version filed on 25 June 2026).

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
8. On 13 May 2026, the Chamber issued its ‘Decision on the Prosecution’s request to maintain contact restrictions’ (the ‘Third Decision on Contact Restrictions’), in which it maintained the existing contact restrictions until the issuance of the confirmation of charges decision and ordered the Registry to immediately inform the Chamber of any violation of the contact restrictions imposed and submit an updated report on the implementation of the restrictions by no later than 15 June 2026. It further ordered the Prosecution to submit a request to maintain the contact restriction, if it sees necessary, by no later than 22 June 2026 and set the deadline for any response to such a request to 2 July 2026.⁹
9. On 15 June 2026, the Registry submitted that it has no concerns to report on the implementation of the contact restrictions (the ‘Second Registry Report on Contact Restrictions’).¹⁰
10. On 22 June 2026, the Prosecution requested the Chamber to maintain the existing contact restrictions until the commencement of trial, grant the Victims and Witnesses Section (the ‘VWS’) access to existing and future recordings of Mr El Hishri’s telephone conversations, and order the Registry to immediately inform the VWS of any breach of the restrictions (the ‘Request’).¹¹
11. On 6 July 2026, the Defence submitted its response to the Request (the ‘Defence Response’), in which it avers that the restrictions preventing Mr El Hishri from associating with Arabic-speaking detainees at the Detention Centre should be lifted because they effectively amount to solitary confinement, which is neither necessary nor does it strike a fair balance with Mr El Hishri’s rights.¹² The Defence further requested the Chamber not to grant the VWS access to existing and future recordings of Mr El Hishri’s telephone conversations on the grounds that it is neither justified nor necessary to do so.¹³
12. On 16 July 2026, the Chamber confirmed the charges against Mr El Hishri.¹⁴

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 [ICC-01/11-01/25-118-Conf](#) (public redacted version filed the same day, ICC-01/11-01/25-118-Red).

¹⁰ Second Registry Report on the Implementation of the Contact Restrictions for Mr Khaled Mohamed Ali El Hishri, ICC-01/11-01/25-134-Conf.

¹¹ [Request](#), para. 25.

¹² Defence response to “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-Conf-Red), ICC-01/11-01/25-140-Conf, paras 8-23.

¹³ Defence Response, paras 24-29.

¹⁴ Decision on the confirmation of the charges against Mr Khaled Mohamed Ali El Hishri, ICC-01/11-01/25-143.

II. Determination

A. Request for the extension of the existing contact restrictions

13. The Chamber notes that, under the Court's legal framework, any requests to extend existing contact restrictions must be assessed on the basis of concrete, specific, and up-to-date information.¹⁵

14. The Chamber recalls that it imposed the contact restrictions 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 or any other investigation¹⁶ and such contact would also threaten the safety and security of victims, actual and potential witnesses, and their families.¹⁷ 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.¹⁸ The Chamber subsequently extended the contact restrictions on the grounds that 'if current contact restrictions were to be lifted or relaxed at this stage, existing risks would only increase' as the confirmation hearing drew closer.¹⁹

15. The Chamber notes that there has been no material changes in the circumstances having led to the abovementioned findings. Multiple witnesses have reported to the Prosecution that they had been subjected to intimidation from persons likely belonging to the SDF/RADA.²⁰ Arguably, as identities of additional witnesses will be disclosed in the phase leading to the trial, the risk to these witnesses may further increase. The Chamber 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 existing contact restrictions.

16. 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,²¹ considering the preventative nature of contact restrictions, Mr El Hishri's compliance with the

¹⁵ Pre-Trial Chamber II, *The Prosecutor V. Mahamat Said Abdel Kani*, [Decision on the 'Prosecution's Second Request for the Extension of Contact Restrictions'](#), 5 May 2021, ICC-01/14-01/21-69-Conf (public redacted version filed on 26 April 2022) para. 24.

¹⁶ [Second Decision on Contact Restrictions](#), para. 35.

¹⁷ [Second Decision on Contact Restrictions](#), para. 36.

¹⁸ [Second Decision on Contact Restrictions](#), para. 43.

¹⁹ [Third Decision on Contact Restrictions](#), para. 12.

²⁰ [Request](#), para. 13, Annex 1 to the Request, ICC-01/11-01/25-137-Conf-Exp-Anx1.

²¹ Second Registry Report on Contact Restrictions, para. 14; First Registry Report on Contact Restrictions, para.18.

restrictions in itself is not 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.

17. The Chamber notes the Defence's submission that the current detention regime amounts to solitary confinement, depriving Mr El Hishri of meaningful human contact, thereby violating regulation 201(8) of the Regulations of the Registry (the 'RoR'). In this regard, the Chamber notes that regulation 201(8) of the RoR is not directly applicable to the current circumstances but observes that, in any event, pursuant to Regulation 155(2) of the RoR, the medical officer has the duty to inform the Chief Custody Officer whenever he or she considers that the physical or mental health of a detained person has been or will be adversely affected by any condition of or treatment in detention. No information has been put before the Chamber indicating the existence of issues related to Mr El Hishri's health and well-being caused by the implementation of the existing contact restrictions or that such will occur in the future. The Chamber trusts that the Chief Custody Officer, in accordance with Regulation 187 of the RoR, has been safeguarding Mr El Hishri's rights and ensuring that he is being treated in a safe and humane manner within the Detention Centre and will continue doing so.

18. On the Defence's submission that the restriction deprives Mr El Hishri of the opportunity to demonstrate exceptional good conduct toward, and interaction with, the detainees as a mitigating factor in the event he is convicted,²² the Chamber considers that such is only one of many possible ways to demonstrate exceptional good behaviour and thus the Defence's concern is unfounded.

19. Upon assessing the necessity and proportionality of the contact restrictions currently in place in light of the preventative function of contact restrictions and the Chamber's duty to protect victims and witnesses, the Chamber provisionally extends the current contact restrictions until further adjudication on the matter by the Trial Chamber assigned to this case. The obligation of the Registry to immediately inform the Chamber and the Defence, on an *ex parte* basis, of any violation of the prescribed contact restrictions shall continue to apply before the said Trial Chamber.

²² Defence Response, paras 22-23.

B. Request for access to recordings of Mr El Hishri's telephone conversations

20. On the Prosecution's request that the VWS be granted access to all recordings of Mr El Hishri's telephone conversations, although not explicitly stated in its Request, the Chamber understands that the request is limited to the disclosure of recordings of non-privileged telephone calls.

21. Under regulations 92(1), (3), and (4) of the Regulations, the detention record of each detained person shall be kept confidential, unless the Chamber orders its disclosure.

22. The Chamber considers that the requested measures, which involve the disclosure of Mr El Hishri's non-privileged communication to a limited number of personnel within the VWS, do not constitute a further limitation of Mr El Hishri's rights. Rather, they are subsidiary requests to ensure the effective implementation of existing contact restrictions and prevent and identify instances of witness interference or breach of confidentiality rules more generally. Despite the Defence's submission to the contrary,²³ the requested measures are proportionate to this aim sought, as it involves the disclosure of information to a limited number of personnel who belongs to the Registry, a neutral organ that is mandated to protect victims and witnesses, without adding to the existing restrictions on Mr El Hishri's communications.

23. In light of the above, the Chamber grants the VWS access to all existing and future recordings of Mr El Hishri's non-privileged telephone conversations.

²³ Defence Response, paras 20-21.

FOR THESE REASONS, THE CHAMBER HEREBY

ORDERS the Registry to provisionally extend the implementation of the existing contact restrictions until further adjudication on the matter by the Trial Chamber assigned to this case;

ORDERS the Registry to immediately inform the relevant Trial Chamber of any violation of the said restrictions; and

GRANTS the VWS access to all existing and future recordings of Mr El Hishri's non-privileged telephone conversations.

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 Thursday, 16 July 2026

At The Hague, The Netherlands