

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

No.: **ICC-01/12-01/18**  
Date: **21 November 2019**  
Date of submission:  
**6 February 2020**

**TRIAL CHAMBER X**

**Before:** Judge Antoine Kesia-Mbe Mindua, Presiding Judge  
Judge Tomoko Akane  
Judge Kimberly Prost

**SITUATION IN THE REPUBLIC OF MALI**

**IN THE CASE OF**  
***THE PROSECUTOR v. AL HASSAN AG ABDOUL AZIZ AG MOHAMED***  
***AG MAHMOUD***

**URGENT**

**PUBLIC**

**With confidential, *EX PARTE*, Annexes A and B**  
**Only available to the Prosecution, VWU and the Detention Section**

**Public redacted version of “the Prosecution’s urgent application to maintain  
restrictions on Mr AL HASSAN’s contacts and access to others whilst in detention”,  
22 November 2019, ICC-01/12-01/18-505-Conf-Exp**

**Source:** Office of the Prosecutor

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

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## Introduction

1. The Prosecution requests Trial Chamber X (“Chamber”) to maintain the restrictions on the non-privileged communications and contacts of Mr AL HASSAN (“Accused”) in detention, pursuant to regulations 101(2) and (3) of the Regulations of the Court (“Regulations”), and articles 57, 61(11), 64 and 68(1) of the Rome Statute (“Statute”).
2. More precisely, the Prosecution requests that when the Chamber is constituted, it orders, initially on an urgent *interim* basis, that all of the existing restrictions on the Accused’s non-privileged communications are maintained as previously ordered by the Single Judge of Pre-Trial Chamber I (“the Single Judge”) in his seven prior decisions (“Restrictions”). An interim order is necessary to ensure that there is no gap in continuity in applying the Restrictions.
3. The Prosecution further asks that, upon receipt of the Defence observations, when the Chamber renders its subsequent decision regarding the Restrictions, the Chamber applies, until at least completion of the proceedings, the current Restrictions and the following additional measures concerning the Accused’s list of non-privileged contacts:
  - Limit the list of authorised non-privileged contacts to only the Accused’s immediate family members (i.e. his parents, wives, and children); and
  - Exclude from the list individuals who are members of, affiliated with, or in close contact with any of the armed groups operating in northern Mali including Ansar Dine or Al-Qaeda in the Islamic Maghreb (“AQIM”).
4. There has been no change in circumstances since the Single Judge of Pre-Trial Chamber I (“PTC”) issued his decisions related to the Restrictions that warrant any lifting or reduction of the Restrictions, under article 60(3) or article 64 of the Statute or regulation 101(2) of the Regulations.
5. On the contrary, it is vital that the Restrictions remain in full force, and that, in the context of the upcoming trial and disclosure of the Prosecution witnesses’ identities, the Accused’s list of contacts be further restricted to only immediate family members because of the grave risks to victims and witnesses, to the preservation of evidence, integrity of the proceedings and manifestation of the truth if the Accused passes on information identifying witnesses to third parties.
6. These risks are indicated by, *inter alia*, the following factors:

- The security situation in the present case, [REDACTED], where Prosecution witnesses continue to face significant, life-threatening, risks if their identifying information is passed on to the armed groups to which the Accused belongs<sup>1</sup> or is associated with. The Accused is a member of Ansar Dine,<sup>2</sup> an organisation classified as terrorist,<sup>3</sup> which is part of a coalition of ‘jihadist’ groups (“Groups”), including AQIM, under an umbrella organisation called the *Jama’at Nusrat Al-Islam wal-Muslimin* (“JNIM”).<sup>4</sup> [REDACTED]

[REDACTED] There is a risk that the Accused’s supporters amongst the Groups will target Prosecution witnesses. The Groups regularly kill individuals (reportedly by decapitation amongst other methods) and acknowledge the killings of those cooperating with local and international security forces as well as state institutions;

- There is a risk that if the Accused’s contacts with third parties are not actively monitored, he may discuss or pass on information identifying Prosecution witnesses to his supporters, including members of the armed groups, with a view to harming or interfering with them. [REDACTED]

[REDACTED];

- [REDACTED]  
[REDACTED]  
[REDACTED]. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

7. In this context, the Accused’s list of contacts should remain restricted only to family members, and all contacts be actively monitored. In previous ICC cases, there have

<sup>1</sup> The Prosecution considers that the Accused remains a member of Ansar Dine even if he is unable to be an active member whilst he is in detention.

<sup>2</sup> Ansar Dine means ‘Defenders of Religion’ and it is an armed group founded by Iyad ag Ghaly.

<sup>3</sup> See below, para. 46.

<sup>4</sup> JNIM also means ‘Group to support Islam and Muslims’. See *Déclaration à la presse faite par le Conseil de sécurité sur l’attaque ayant visé la MINUSMA*, SC/12810-PKO/636, 4 May 2017, [REDACTED]; *Déclaration à la presse faite par le Conseil de sécurité à l’occasion de l’attentat terroriste perpétré contre la MINUSMA*, SC/12837-PKO/644, 23 May 2017, [REDACTED].

been instances before active monitoring, where suspects or accused have passed on confidential information identifying Prosecution witnesses to their family, who in turn have passed that information to the suspects' or accused's supporters. Family members have also threatened Prosecution witnesses. [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
8. Although the Defence has indicated that the [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED] The Accused's list of non-privileged contacts should exclude any individuals who are members of, affiliated with or in contact with the Groups, because of the significant risks they pose to Prosecution witnesses if their identifying information is revealed by the Accused. However, the Prosecution agrees that the Accused should be able to have contact with his immediate family [REDACTED]
- [REDACTED]
- [REDACTED]. However, at minimum, active monitoring is essential.
9. Last, the Prosecution indicates that before the disclosure of the names of its witnesses, whose identities are currently redacted with approval of the Single Judge, in particular [REDACTED] it may be making additional requests with the Trial Chamber for more stringent restrictions on the Accused's contacts.

### Confidentiality

10. This Request is classified as confidential, *ex parte*, available only to the Prosecution, VWU and Detention Section, pursuant to regulation 23bis(1) and (2) of the

Regulations as it includes a number of documents and decisions of the same classification. Moreover, this Request contains confidential information regarding [REDACTED]. The Prosecution will file a subsequent redacted confidential version of the Request, accessible to the Defence.

### **Request under regulation 37**

11. Pursuant to regulation 37 of the Regulations, the Prosecution requests that the Trial Chamber grant an extension of the 20-page limit, of an additional eight pages. There are exceptional circumstances justifying the page limit extension. In particular, the Prosecution requires the additional pages to provide the Trial Chamber with: (a) the necessary background of the lengthy procedural history since 29 March 2018 (six pages in itself); (b) sufficient factual information about the risks posed to Prosecution witnesses if existing Restrictions are not maintained; and, (c) an analysis [REDACTED]

### **Background**

12. During the period immediately before the arrest of the Accused and during the preliminary phase of the proceedings, the Prosecution and the Defence made several requests in relation to the Accused's non-privileged communications. In total, the Pre-Trial Chamber issued seven decisions regarding restrictions on his contacts.
13. On 29 March 2018, the Prosecution urgently requested that [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].<sup>6</sup>
14. On the same day on 29 March 2018, the Single Judge [REDACTED]  
[REDACTED].<sup>7</sup> [REDACTED]  
[REDACTED]<sup>8</sup> [REDACTED]  
[REDACTED].<sup>9</sup>
15. On 31 March 2018, the Accused was surrendered to the Court.
16. On 5 April 2018, the Single Judge [REDACTED]  
[REDACTED] ("[REDACTED]"). [REDACTED]  
[REDACTED]

<sup>6</sup> [REDACTED].

<sup>7</sup> [REDACTED]

<sup>8</sup> [REDACTED]

<sup>9</sup> [REDACTED] d.

[REDACTED]  
[REDACTED]  
[REDACTED].<sup>10</sup> In particular, the Single Judge [REDACTED]  
[REDACTED]:

- [REDACTED]  
[REDACTED],<sup>11</sup>
- [REDACTED]  
[REDACTED]  
[REDACTED],<sup>12</sup>
- [REDACTED]  
[REDACTED]  
[REDACTED];<sup>13</sup> and
- [REDACTED]  
[REDACTED].<sup>14</sup>

17. On 30 April 2018, the Single Judge [REDACTED]<sup>15</sup> [REDACTED]  
[REDACTED]  
[REDACTED].<sup>16</sup> [REDACTED]  
[REDACTED]  
[REDACTED].<sup>17</sup>

18. [REDACTED]  
[REDACTED]  
[REDACTED].<sup>18</sup>

19. On 22 May 2018, the Registrar [REDACTED] [REDACTED]  
[REDACTED],<sup>19</sup> [REDACTED]  
[REDACTED].<sup>20</sup> [REDACTED]  
[REDACTED]  
[REDACTED] (“[REDACTED]”). [REDACTED]

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10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]

- [REDACTED]
- [REDACTED].<sup>21</sup>
20. On 4 June 2018, the Prosecution [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- (“[REDACTED]”).<sup>22</sup>
21. On 14 June 2018, the Defence r [REDACTED]
- [REDACTED],<sup>23</sup> [REDACTED] (“[REDACTED]”).<sup>24</sup> [REDACTED]
- [REDACTED]
- [REDACTED].
22. On 20 June 2018, the Single Judge [REDACTED] (“[REDACTED]”)
- [REDACTED] (“[REDACTED]”) [REDACTED].
23. [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED].<sup>25</sup> [REDACTED]
- [REDACTED]<sup>26</sup> [REDACTED]
- [REDACTED].<sup>27</sup> [REDACTED]
- [REDACTED]
- [REDACTED].<sup>28</sup> [REDACTED]
- [REDACTED]
- [REDACTED].<sup>29</sup>
24. In [REDACTED], the Single Judge, [REDACTED]
- [REDACTED]
- [REDACTED]

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21 [REDACTED].

22 [REDACTED].

23 [REDACTED].

24 [REDACTED].

25 [REDACTED].

26 [REDACTED].

27 [REDACTED].

28 [REDACTED].

29 [REDACTED].

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]<sup>30</sup>
25. On 27 June 2018, the Registry [REDACTED]<sup>31</sup> [REDACTED]  
[REDACTED]<sup>32</sup> [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]<sup>34</sup>
26. On 28 June 2018, the Prosecution [REDACTED] [REDACTED]  
[REDACTED] (“[REDACTED]”).<sup>36</sup>
27. On 22 November 2018, the Single Judge granted the Defence request for regular reporting by Registry on the Accused’s detention.<sup>37</sup> He specified that such reports be filed every three months.<sup>38</sup>
28. On 28 February 2019 the Defence requested a variation of the Restrictions, in particular, to: end active monitoring and apply passive monitoring only; lift the two hours limit on telephone conversations; authorise private visits; and to authorise the Accused to receive videos of his children after checks, if necessary, to confirm that there were no unauthorised messages.<sup>39</sup>
29. On 11 March 2019, the Prosecution opposed the request for a variation of the Restrictions, but did not oppose the request to receive videos of the Accused’s children, provided that they are in French, Tamasheq or Arabic, and first reviewed by a Registry interpreter.<sup>40</sup>
30. On 12 April 2019, the Registry filed [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

<sup>30</sup> [REDACTED]

<sup>31</sup> [REDACTED]

<sup>32</sup> [REDACTED]

<sup>33</sup> [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

<sup>35</sup> [REDACTED]

<sup>36</sup> [REDACTED]

<sup>37</sup> ICC-01/12-01/18-161-Red. The Registrar responded on 2 November 2018. See [REDACTED].

<sup>38</sup> See ICC-01/12-01/18-340-Red3, para.14, citing ICC-01/12-01/18-189-Conf-Exp.

<sup>39</sup> ICC-01/12-01/18-260-Conf-Exp-Red.

<sup>40</sup> ICC-01/12-01/18-271-Conf-Exp.

- [REDACTED]
- [REDACTED] (“[REDACTED]”).<sup>41</sup> [REDACTED]
- [REDACTED]
- [REDACTED].<sup>42</sup>
31. On 25 April 2019, the Prosecution [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED],<sup>43</sup> [REDACTED]
- [REDACTED].<sup>44</sup> T [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED],<sup>45</sup> [REDACTED]
- [REDACTED],<sup>46</sup> [REDACTED]
- [REDACTED],<sup>47</sup> [REDACTED]
- [REDACTED].<sup>48</sup>
32. On 9 May 2019, the Single Judge issued the fourth decision regarding the Restrictions on the Accused’s contacts in detention (“Fourth Decision”).<sup>49</sup> The Single Judge concluded, *inter alia*, that the circumstances had not changed and the Restrictions remained justified and proportionate.<sup>50</sup> The Single Judge decided to:
- maintain the limit of two hours of calls per week for non-privileged calls;<sup>51</sup>
  - maintain the prohibition on private visits;<sup>52</sup>
  - allow the Accused to receive video-recorded messages from family members, subject to a system of verification;<sup>53</sup>
  - and granted, subject to redaction, the Prosecution access to the filings of the Defence, Registry reports and the Single Judge’s decision of 22 November 2018.<sup>54</sup>

<sup>41</sup> [REDACTED]

<sup>42</sup> [REDACTED]

<sup>43</sup> [REDACTED]

<sup>44</sup> [REDACTED]

<sup>45</sup> [REDACTED]

<sup>46</sup> [REDACTED]

<sup>47</sup> [REDACTED]

<sup>48</sup> [REDACTED]

<sup>49</sup> ICC-01/12-01/18-340-Conf-Exp-Red2.

<sup>50</sup> ICC-01/12-01/18-340-Conf-Exp-Red2, para. 45-55.

<sup>51</sup> ICC-01/12-01/18-340-Conf-Exp-Red2, para. 59.

<sup>52</sup> ICC-01/12-01/18-340-Conf-Exp-Red2, para. 61.

<sup>53</sup> ICC-01/12-01/18-340-Conf-Exp-Red2, para. 62.

33. On 13 May 2019, the Defence requested [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].<sup>55</sup> [REDACTED]  
[REDACTED]  
[REDACTED].<sup>56</sup> [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].<sup>57</sup>
34. On 22 May 2019, the Defence requested [REDACTED]  
[REDACTED].<sup>58</sup> On 29 May 2019,  
the Prosecution [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].<sup>59</sup>
35. On 7 June 2019, the Single Judge issued a [REDACTED]  
[REDACTED] (“[REDACTED]”), in which he *inter alia*.<sup>60</sup>
- [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]; [REDACTED]  
[REDACTED];
  - [REDACTED]; and,
  - [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

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54. [REDACTED]  
55. [REDACTED]  
56. [REDACTED]  
57. [REDACTED]  
58. [REDACTED]  
59. [REDACTED]  
60. [REDACTED]

36. On the same day, the Single Judge issued a [REDACTED] [REDACTED] (“[REDACTED]  
[REDACTED]”).<sup>61</sup> [REDACTED]  
[REDACTED].
37. On 12 June 2019, the Defence requested [REDACTED]  
[REDACTED] (“[REDACTED]”).<sup>62</sup> On 14 June 2019, the Prosecution  
[REDACTED].<sup>63</sup> On 18 June 2019, [REDACTED] (“[REDACTED]  
[REDACTED]”), the Single Judge [REDACTED].<sup>64</sup>
38. On 18 November 2019, in response to requests for clarification from the Prosecution  
regarding [REDACTED], and what was meant by the phrase “la  
*phase préliminaire de la procédure*” in various relevant decisions, the Single Judge  
confirmed: [REDACTED]
- [REDACTED]
- [REDACTED]<sup>65</sup>

## Submissions

**I. At minimum the current Restrictions on contacts must be maintained**

39. The Prosecution requests on an urgent *interim* basis that, at minimum, the Trial Chamber maintain all existing Restrictions on the Accused's contacts in detention as previously ordered by the PTC Single Judge in his seven prior decisions, pursuant to regulations 101(2) and (3) of the Regulations, and articles 57, 61(11), 64, and 68 of the Statute, namely:<sup>66</sup>

- [REDACTED]
- [REDACTED]

61 [REDACTED]

62

63

64

65 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

- [REDACTED]
- [REDACTED],<sup>67</sup>
- [REDACTED]
- [REDACTED],<sup>68</sup>
- [REDACTED]
- [REDACTED],<sup>69</sup>
- [REDACTED]
- [REDACTED],<sup>70</sup>
- [REDACTED]
- [REDACTED]
- [REDACTED],<sup>71</sup>
- [REDACTED]
- [REDACTED],<sup>72</sup>
- [REDACTED]
- [REDACTED],<sup>73</sup>
- [REDACTED],<sup>74</sup>
- [REDACTED]
- [REDACTED]
- [REDACTED],<sup>75</sup>
- [REDACTED]
- [REDACTED]
- [REDACTED],<sup>76</sup>
- [REDACTED]
- [REDACTED],<sup>77</sup> [REDACTED]
- [REDACTED],<sup>78</sup> and
- [REDACTED]
- [REDACTED],<sup>79</sup>

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67 [REDACTED].

68 [REDACTED].

69 [REDACTED].

70 [REDACTED].

71 [REDACTED].

72 [REDACTED].

73 [REDACTED].

74 [REDACTED].

75 [REDACTED].

76 [REDACTED].

77 [REDACTED].

78 [REDACTED].

79 [REDACTED].

40. It is imperative that these Restrictions, including the various monitoring mechanisms, are maintained immediately upon the Trial Chamber being seized of this case to ensure that there is no gap in the continuity of their application.
41. The Restrictions are crucial. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]<sup>80</sup>.
42. There remains a significant life-threatening risk of harm to Prosecution witnesses if their identifying information is directly or indirectly revealed by the Accused to third parties within the armed groups, and risks to the preservation of evidence, integrity of the proceedings and manifestation of truth. The risks are particularly acute after confirmation of the charges [REDACTED]  
[REDACTED]<sup>81</sup>, and the serious security issues in this case.

**Factors relevant to maintaining the existing Restrictions continue to exist**

43. [REDACTED]  
[REDACTED]  
[REDACTED]<sup>82</sup>. [REDACTED]  
[REDACTED].
44. In this context, the following factors, as relied upon or submitted to the Single Judge, remain relevant to the Trial Chamber's assessment of the need for the Restrictions on contacts between the Accused and other persons, including as follows:<sup>83</sup>
- On the day of his arrest, the Accused was still active within the terrorist group Ansar Dine. He worked under Iyad Ag Ghaly (the founder and leader of Ansar Dine and the main leader of the umbrella organisation JNIM). The Accused was implicated in attacks on, and killings of, MINUSMA personnel;
  - While in detention in Mali, the Accused was maintaining contact with other detainees - members of the armed groups, which demonstrates his willingness and ability to find ways to communicate with other members of the armed groups.

<sup>80</sup> [REDACTED].

<sup>81</sup> Subject to potential requests for delayed disclosure.

<sup>82</sup> [REDACTED].

<sup>83</sup> [REDACTED].

- Subsequently, [REDACTED]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED] The security situation in [REDACTED] [REDACTED] is very volatile, including because of the on-going activities of the terrorist Groups Ansar Dine, to which the Accused belongs, and AQIM/JNIM, to which he has links. The Groups regularly carry out attacks against both local and international security forces and civilians alleged to cooperate with these forces. In particular, the Groups [REDACTED] have violently attacked anyone perceived to cooperate with international organisations, including members of the judiciary.

[REDACTED]

[REDACTED]

- Supporters of the Accused (as a member of Ansar Dine) could resort to similar methods against Prosecution witnesses. [REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]<sup>84</sup> [REDACTED]

[REDACTED]

[REDACTED]

45. These factors, as detailed below, remain applicable at this stage of the proceedings and justify, at minimum, maintaining the existing Restrictions.

***(a) Mr AL HASSAN is a member of Ansar Dine and linked to AQIM, and these Groups seek to maintain contact with their members in custody***

46. Mr AL HASSAN is allegedly a member of Ansar Dine and linked to AQIM (an Al-Qaeda affiliated organisation).<sup>85</sup> On the day of his arrest he was still working under

<sup>84</sup> [REDACTED]

Iyad Ag Ghaly, the founder and leader of Ansar Dine and the main figure of JNIM.<sup>86</sup> The Accused was a base commander.<sup>87</sup> The Accused was implicated in attacks on, and killings of, MINUSMA personnel.<sup>88</sup>

47. There are particular risks to witnesses and victims arising from the Accused's membership and affiliation to these Groups, which have been described as "terrorist" organisations by the UN<sup>89</sup> and US Department of State,<sup>90</sup> and included in the list of organisations subject to UN sanctions.<sup>91</sup> In particular, the *'United Nations Handbook on the Management of Violent Extremist Prisoners'* observes that it may be necessary to monitor and control prisoners' contacts, referring as an example to *Al-Qaeda's* recommendation in its training manual that its operatives held in prisons and detention centres: "[t]ake advantage of visits to communicate with brothers outside prison and exchange information that may be helpful to them in their work outside prison... The importance of mastering the art of hiding messages is self-evident here".<sup>92</sup> The Groups to which the Accused was actively involved, were part of or affiliated with *Al-Qaeda*.<sup>93</sup>

<sup>85</sup> The Accused was a member of a common plan in Timbuktu together with AQIM members. See also e.g. [REDACTED], at 00:38:50:00 to 00:42:00:00: Iyad ag Ghaly, leader of Ansar Dine, confirms that Ansar Dine is linked to *Al-Qaeda*.

<sup>86</sup> [REDACTED].

<sup>88</sup> United Nations Security Council, Resolution 2100 (2013), S/RES/2100, 25 April 2013, MLI-OTP-00062740, p. 2744, para. 7, p. 2746-2748, para. 16. See also Resolution 2295 (2016), S/RES/2295 (2016), 29 June 2016, <http://unscr.com/en/resolutions/doc/2295>, para. 16; Resolution 2364 (2017), S/RES/2364 (2017), 29 June 2017, <http://unscr.com/en/resolutions/doc/2364>, para. 17.

<sup>89</sup> See e.g. UNSC, Al-Qaida Sanctions Committee, The Organisation of al-Qaida in the Islamic Maghreb, 28 March 2011, [REDACTED]; UNSC Resolution 2056 (2012), [REDACTED]; UNSC Resolution 2071 (2012), [REDACTED]; UNSC Resolution 2085 (2012), [REDACTED]; UNSC Resolution 2100 (2013), [REDACTED]; UNSC Resolution 2374 (2017), S/RES/2374 (2017), 5 September 2017, [REDACTED]; UNSC Report of the Secretary-General, S/2014/9, 9 January 2014, [REDACTED]; UNSC, 14 Report of the Analytical Support and Sanctions Monitoring Team submitted pursuant to resolution 2083 (2012) concerning Al-Qaida and associated individuals and entities, S-2013/467, [REDACTED].

<sup>90</sup> US State Department, "Designation of al-Qa'ida in the Islamic Maghreb as a Foreign Terrorist. Organisation", 4 February 2008, [REDACTED]; "Terrorist Designations of Ansar al-Dine", 21 March 2013, MLI-OTP-0066-0396.

<sup>91</sup> See e.g. UN Security Council, [REDACTED]; UNSC Consolidated Sanctions List, [REDACTED].

See [https://www.unodc.org/pdf/criminal\\_justice/Handbook\\_on\\_VEPs.pdf](https://www.unodc.org/pdf/criminal_justice/Handbook_on_VEPs.pdf), p. 13-14, especially footnote 17: cites *Al-Qaeda* training manual [REDACTED], at [www.justice.gov/sites/default/files/ag/legacy/2002/10/08/manualpart1\\_4.pdf](http://www.justice.gov/sites/default/files/ag/legacy/2002/10/08/manualpart1_4.pdf) (Annex A to this filing). The same manual recommends them to complain of torture during investigation.

<sup>93</sup> For instance, an *Al-Qaeda* manual was found in Timbuktu. See R. Callimachi, AP, "Mali manual suggests *Al-Qaeda* has feared weapon", [REDACTED].

(b) *Mr AL HASSAN's* [REDACTED]

48.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] In particular, under the Regulations of the Registry or Regulations of the Court, there is no need to prove that there was an actual attempt to commit an offence. The Chamber may grant restrictions on contacts in detention to pre-empt risks. This is particularly important where there is a serious risk that witnesses could be harmed, and it may be too late to put in place measures afterwards.<sup>95</sup>

49.

Nevertheless, [REDACTED]  
[REDACTED], the Accused has previously [REDACTED]  
[REDACTED]

50.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

51.

[REDACTED]  
[REDACTED]  
[REDACTED]<sup>97</sup> [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

<sup>94</sup> [REDACTED]

<sup>95</sup> See e.g. [REDACTED]

<sup>96</sup> [REDACTED]

<sup>97</sup> [REDACTED]

t [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED],<sup>98</sup> [REDACTED]  
[REDACTED], [REDACTED]  
[REDACTED].

52. [REDACTED]  
[REDACTED],<sup>99</sup> [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].<sup>100</sup>

53. The Prosecution has since been granted [REDACTED]  
[REDACTED], [REDACTED]  
[REDACTED]  
[REDACTED]. The Prosecution makes the following additional observations:

54. First, the Accused [REDACTED]  
[REDACTED]:

- [REDACTED]  
[REDACTED]  
[REDACTED]<sup>101</sup> [REDACTED]  
[REDACTED]  
[REDACTED]<sup>102</sup> [REDACTED]  
[REDACTED]<sup>103</sup> [REDACTED]  
[REDACTED]<sup>104</sup> [REDACTED]  
[REDACTED];

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<sup>98</sup> See e.g. [REDACTED]  
[REDACTED]

<sup>99</sup> [REDACTED]  
<sup>100</sup> [REDACTED]  
<sup>101</sup> [REDACTED]  
<sup>102</sup> [REDACTED]  
<sup>103</sup> [REDACTED]  
<sup>104</sup> [REDACTED]

- [REDACTED]  
[REDACTED]  
[REDACTED] 105 [REDACTED]  
[REDACTED] 106 .

55. Second, the Accused has [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED]  
[REDACTED] 107 [REDACTED]  
[REDACTED] [REDACTED] 108 [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

56. Third, the Accused has [REDACTED]  
[REDACTED]  
[REDACTED]  
○ [REDACTED]  
[REDACTED]  
[REDACTED] 109 [REDACTED]  
[REDACTED];  
○ [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] 110 T [REDACTED]  
[REDACTED]  
[REDACTED] 111 .

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105 [REDACTED]  
106 [REDACTED]  
107 [REDACTED]  
108 [REDACTED]  
[REDACTED]  
110 [REDACTED]  
111 [REDACTED]





***(d) The security situation in Mali [REDACTED] remains highly volatile: the Groups, to which the Accused belongs or has links, target ‘enemies’ using extremely violent methods***

63. [REDACTED] the present case is *atypical* given the particular security risks posed by Ansar Dine and AQIM.<sup>121</sup>
64. The security situation in Mali [REDACTED], remains extremely volatile.<sup>122</sup> The armed groups AQIM and Ansar Dine, of which the Accused remains a member,<sup>123</sup> and their strong criminal networks<sup>124</sup> remain capable of carrying out retaliatory measures against Prosecution witnesses. [REDACTED]  
[REDACTED]  
[REDACTED]
65. The Groups use extremely violent and persistent methods to target their perceived ‘enemies’, including members of the judiciary.
66. In many instances, their enemies are abducted or killed outright rather than threatened. It is likely that ICC witnesses will also be viewed and targeted by these Groups as enemies.<sup>125</sup>
67. Ansar Dine and other members of the Groups have attacked international institutions and killed persons or local authorities and those perceived as collaborating with them. Ansar Dine and JNIM have issued propaganda statements demonstrating this targeting, which they describe as the “*mujahidin*” war against the “*infidel*” “*enemies*” and those perceived as the enemies’ supporters. Ansar Dine issued such statements in 2014 and 2016;<sup>126</sup> and JNIM, the umbrella organisation that includes Ansar Dine, issued further statements in April 2017,<sup>127</sup> on 5 March 2018,<sup>128</sup> and more recently in 2019.<sup>129</sup>

<sup>121</sup> [REDACTED]

<sup>122</sup> [REDACTED]

[REDACTED], and [REDACTED] which shows security incidents [REDACTED] from 2017 until [REDACTED] 2018, including attacks by armed groups [REDACTED]. [REDACTED]

a [REDACTED]

<sup>1</sup> The Accused confirmed that until his arrest in April 2017 he was a member of Ansar Dine and still active under the orders of Iyad Ag GHALY. See [REDACTED]  
[REDACTED].

Al-Qaeda and Affiliates: Historical Perspective, Global Presence, and Implications for U.S. Policy, 5 February 2010, [REDACTED], p. 2728; The year of fragility exposed: Mali 2012-13 / Background Paper, January 2016, [REDACTED], p. 0512 and p. 0516.

<sup>125</sup> [REDACTED]

<sup>126</sup> Video, [REDACTED]; “Mali: Le groupe Ansar Eddine envoie des tracts aux populations locales”, *Sahelien.com*, 7 January 2015, [REDACTED]; “Mali: le chef d’Ansar Dine s’en prend à nouveau aux forces internationales”, RFI, 26 June 2016, [REDACTED], p. 0909.

<sup>127</sup> [REDACTED]

[REDACTED] The leaflet entitled, “To our people in the al-Ansar tribe,” warned against informing on international security forces, and stated: “...they are waging war against those who aid

68. In its propaganda statements, JNIM has indicated that their attacks relate to previous national or international incidents, and have specifically targeted areas where foreigners are likely to be present. For instance, in April 2018, a JNIM brigade attacked the MINUSMA base, near Timbuktu airport.<sup>130</sup> In January 2019, JNIM claimed responsibility for an attack on the MINUSMA base in Aguelhok, killing at least 10 Chadian peacekeepers and wounding 25, in response to the “normalisation campaigns with the criminal Jewish entity”, referencing a meeting between Chadian President Idriss Deby and Israeli Prime Minister Benjamin Netanyahu.<sup>131</sup>
69. The Prosecution further recalls the following examples of attacks on individuals perceived to be enemies. On 25 September 2014, a Tuareg man accused of collaborating with MINUSMA was reportedly beheaded by the armed groups. His head was placed at the market of the village of Al Zewerah, about 120 km north of Timbuktu.<sup>132</sup> In 2016, AQMI claimed in a video that the group had executed two persons alleged to have provided intelligence to Mauritanian and French forces.<sup>133</sup> On 31 October 2017, the convoy of the President of the Malian High Court was targeted by a deadly ambush in Mopti region. His driver and five escorting soldiers were killed.<sup>134</sup> Similarly, on about 16 November 2017, the President of the Niono Court in Ségou region was kidnapped by armed groups.<sup>135</sup> In a video published by the Groups

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*the infidels [in their oppressive behaviour] against Muslims, whether they are helping them by spying on the mujahidin and providing information to their enemies [i.e. to the infidels], or if they are helping them by pitting the people against the mujahidin, spreading false rumours about them, and accusing them of doing things which are not in their religion or their doctrine... They will meet the same fate as their ancestors – traitors who sold their religion to the rest of the world – so [bear that in mind] ....”*

<sup>128</sup> See <https://twitter.com/MENASTREAM/status/970728133753262080>. On 5 March 2018, the Emirate of the Timbuktu region issued a statement via, *az-Zallaqa*, the JNIM propaganda channel. The statement warned those cooperating with local or foreign forces that they would face consequences for doing so.

<sup>129</sup> FDD’s Long War Journal, [Attack on UN base in Mali carried out according to Zawahiri’s guidelines, JNIM says](#), 20 January 2019.

<sup>130</sup> News.com.au, [Militants disguised as peacekeepers attack French and UN bases in Mali](#), 16 April 2018.

<sup>131</sup> FDD’s Long War Journal, [Attack on UN base in Mali carried out according to Zawahiri’s guidelines, JNIM says](#), 20 January 2019; MINUSMA, [Les casques bleus de la MINUSMA repoussent une attaque terroriste complexe à Aguelhok](#), 20 January 2019.

<sup>132</sup> « Head of a doctor and a message...sign of a new war in the Azawad », *Sahara Media*, 25 September 2014, [redacted]; –Translation [redacted].

“Al-Qaeda executes informants to Mauritania and France, and broadcast their confessions”, *Alakhbar*, 2 November 2016, [redacted], Translation [redacted], p. 0190.

<sup>134</sup> “Mali : un président de tribunal enlevé apparaît dans une vidéo”, *Maliactu.net*, <http://maliactu.net/mali-un-president-de-tribunal-enleve-apparaît-dans-une-vidéo/> [last accessed 26/03/2018]; Report of the Secretary-General on the situation in Mali, 26 December 2017, <https://undocs.org/S/2017/1105> (“UNSG Report 2017”), para. 34.

<sup>135</sup> “Enlèvement du juge Soungalo Koné à Niono : Le Procureur du Pôle judiciaire spécialisé ouvre une enquête”, 21 November 2017, <http://www.maliweb.net/insecurite/enlevement-juge-soungalo-kone-a-niono-procureur-pole-judiciaire-specialise-ouvre-enquete-2671132.html> [last accessed 26/03/2018]; UNSG December 2017 report, para. 34.

in December 2017, they made his release conditional upon the release of “*jihadistes détenus*”.<sup>136</sup>

70. On 9 January 2018, the head of the Customs office in Timbuktu, Abdoukader Amadou Touré, was assassinated by six armed unidentified individuals on three motorbikes.<sup>137</sup> On 4 February 2018, members of the National Guard were assassinated by individuals on motorbikes in Gossi, in the Timbuktu region. The attackers were presumed to be militants of JNIM.<sup>138</sup> On 21 May 2018, alleged “*jihadists*” reportedly killed two civilians in the village of Waaka in Mopti region, who they stated opposed them. They warned other village members that they would kill other ‘enemies of Islam’.<sup>139</sup> End of May 2018, the interpreter of the Tribunal in Mopti region is believed to have been killed by armed men on motorbikes at his residence.<sup>140</sup> On 30 August 2018, the spokesperson of Ansar Dine circulated a message threatening individuals cooperating with MINUSMA.<sup>141</sup> On 21 September 2018, Abu Yahya al Hamman of AQIM claimed responsibility for the assassination of the military chief of the *Coalition des Mouvements de l’Azawad* (“CMA”), due to his alleged collaboration with the French forces.<sup>142</sup>
71. In 2019, in northern Mali, the level of assassinations, kidnappings and attacks against individuals remains high. For instance, in September 2019, an unidentified armed group abducted an Operational Coordination Mechanism (“MOC”) Coordination Office officer in Timbuktu region. The group reportedly freed the individual after a week.<sup>143</sup>
72. There is evidence that the Groups are willing to seek revenge on behalf of the Accused. [REDACTED]

<sup>136</sup> “Mali : un président de tribunal enlevé apparaît dans une vidéo”, <http://maliactu.net/mali-un-president-de-tribunal-enleve-apparaît-dans-une-vidéo/> [last accessed 26/03/2018].

<sup>137</sup> [REDACTED]

<sup>139</sup> See e.g. <https://www.voaafrrique.com/a/deux-villageois-%C3%A2g%C3%A9s-tu%C3%A9s-par-de-pr%C3%A9sum%C3%A9s-jihadistes-au-mali/4405319.html>.

<sup>140</sup> See e.g. <https://twitter.com/Walid6519/status/1001401888602980352>.

<sup>141</sup> Twitter Post, Fael D, #MALI #SAHEL #JNIM #AgGhaly #KIDAL #TERRORISME #KIDAL Selon cette publication, Sedane Ag Hita ou Abou Abdel Hakim al-Kidali, successeur d'Iyad Ag Ghali au sein d'Ansar Dine, annonce des attaques à venir... si vous avez des informations !!!, 30 August 2018.

<sup>142</sup> Twitter Post, Wassim Nasr, #JNIM #AQMI #AlQaeda a revendique l'assassinat d'un chef militaire de la #CMA #MOC Saloum ould m'Beghi à #Tombouctou // étaye les raisons principalement sa collaboration avec la #France et propose une rencontre avec les représentants de sa tribu // signé Abou al-Houmam, 21 September 2018.

<sup>143</sup> Twitter, Housseyn Ag Issa, Libération de Mamma Ag Mohamed Ali, officier du #MOC de #Gao au compte de la #CMA, enlevé il y a une semaine dans la zone de #léré, région de #Tombouctou, 21 September 2019.

73.

(e)

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## II. The Prosecution requests additional restrictions to the list of contacts

74. When the Trial Chamber makes its subsequent determination regarding the Restrictions, the Prosecution requests that in addition to maintaining all existing Restrictions, the list of non-privileged contacts be restricted to only the Accused's immediate family, namely his parents, wives, and children. Although the Single Judge did not grant a similar previous request, the Prosecution respectfully requests that the Trial Chamber do so, in particular considering the present stage of the proceedings where the charges have been confirmed. The risks to Prosecution witnesses are increased as the motivation of the Accused's network of supporters to harm Prosecution witnesses is potentially greater.

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***The restrictions on contacts are lawful and necessary***

80. The restrictions on the Accused's right to contact with third parties as ordered by the Single Judge, and new restriction proposed, are according to the law and necessary, under the Court's statutory and regulatory framework.
81. First, the restrictions are lawful and needed to protect witnesses, based on the Court's obligations under articles 57(3)(c), 64, and 68(1) of the Statute.
82. In that context, all of the current Restrictions on contacts and proposed restrictions come within the Chamber's broad powers under regulation 101(2) of the Regulations to "*prohibit, regulate, or set conditions for contact between a detained person and any other person, with the exception of counsel*".
83. Second, the Restrictions on contacts, and additional restrictions proposed, are necessary and proportionate, under the terms of regulation 101(2) of the Regulations because there remain reasonable grounds to believe that such contacts: "*(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*". Moreover, it is clear from the conditional language of regulation 101(2) that measures can be taken to pre-emptively apply restrictions on contacts even where no violations have occurred yet but a risk exists.<sup>152</sup> Otherwise, this would undermine the ability to effectively deal with risks. In the present case, restrictions are necessary because of the significant risk of harm to Prosecution witnesses and to the integrity of the proceedings.
84. Third, even though the Regulations and Regulations of the Registry ("Registry Regulations") entitle the Accused "*to communicate by letter or telephone with his family and other persons*",<sup>153</sup> and to "*receive visits*",<sup>154</sup> both the Regulations and Registry Regulations allow the Single Judge to impose restrictions, *inter alia*, "*in the interests of the administration of justice or for the maintenance of the security and*

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(where the applicant's cell was inspected on a daily basis, his correspondence was read, his telephone conversations and conversations with visitors were monitored, he was allowed to associate with only a limited number of fellow prisoners and he was separated from his visitors by a glass partition except for the possibility of one "open" visit per month by members of his immediate family, whose hands he was allowed to shake at the beginning and end of the visit) did not violate article 8. The restrictions were "*designed to cut all links between the prisoners concerned and the criminal environment to which they had belonged*" and "*did not go beyond what was necessary in a democratic society to attain the legitimate aims intended*"); *Lavents v. Latvia*, para. 129, 134-143 (finding an article 8 violation, when no family visits were allowed); *Kornakovs v Latvia*, para. 131-136 (finding an article 8 violation, when *inter alia* the judge rejected the requests for family visits without reasoning).

<sup>152</sup> [REDACTED]

<sup>153</sup> Regulation 99(1)(i).

<sup>154</sup> Regulation 100(1).

*good order for the detention centre*”.<sup>155</sup> Moreover, regulations 175 and 180 of the Registry Regulations provide a basis for restrictions on contacts where there are reasonable grounds to believe that a detained person or interlocutor may be attempting to: “...*(b) interfere with or intimidate a witness; (c) interfere with the administration of justice; (d) otherwise disturb the maintenance of the security ... of the detention centre; (e) jeopardise the interests of public safety or the rights or freedom of any person; or (f) breach an order for non-disclosure made by a Chamber*”.

85. Finally, the existing and proposed Restrictions are compatible with other international standards that grant broad powers of discretion: rule 37 of the United Nations Standard Minimum Rules for the Treatment of Prisoners permits prisoners “*to communicate with their family and reputable friends*” “*under necessary supervision*”.<sup>156</sup> The UN Handbook advises that a prison administration’s duty to encourage contact with the outside world “*be balanced against the risks that may be associated with the ability of violent extremist prisoners to communicate with those outside. Communication must be managed to prevent crime, ... ensure the protection of the public from unwanted communications... When appropriate, prison officials may need to monitor and control violent extremists’ communication... This may apply to family visitors, telephone calls, mail or email. Prison officials should take steps to detect, deter and disrupt all communications that would benefit violent extremists’ objective*”.<sup>157</sup> Similarly, rule 24.2 of the European Prison Rules stipulates that “[c]ommunication and visits may be subject to restrictions and monitoring necessary for the requirements of continuing criminal investigations, maintenance of good order, safety and security, prevention of criminal offences and protection of victims of crime”, whilst acknowledging that there must be an acceptable “*minimum level of contact*”.<sup>158</sup>
86. The existing and proposed Restrictions allow for an appropriate minimum level of contact: the Accused will still enjoy visits and communication with the outside world.

<sup>155</sup> Regulation 99(2) and regulation 100(3) of the Regulations; Regulations 175(1) and 180 of the Registry Regulations. See also regulations 174, 181, 183-185 of the Registry Regulations.

<sup>156</sup> Rule 37, *UN Standard Minimum Rules for the Treatment of Prisoners*. The Rules also allow “[t]he central prisons administration to authorise departure from the rules [...]” (Emphasis added).

<sup>157</sup> See [https://www.unodc.org/pdf/criminal\\_justice/Handbook\\_on\\_VEPs.pdf](https://www.unodc.org/pdf/criminal_justice/Handbook_on_VEPs.pdf), p. 13-14, especially footnote 17. The contributors to the UN Handbook includes a representative of the UN Department for Peacekeeping Operations in Mali (see p. iii).

<sup>158</sup> Council of Europe Committee of Ministers. Recommendation Rec (2006) 2 of the Committee of Ministers to member states on the European Prison Rules. Adopted by the Committee of Ministers on 11 January 2006. Rule 24.2 indicates the restrictions on: (a) the right to communicate under Rule 24.1 “*as often as possible by letter, telephone or other forms of communication with their families, other persons and representatives of outside organisations and to receive visits from these persons*”; and restrictions on: (b) the right to family visits under Rule 24.4: “*The arrangements for visits shall be such as to allow prisoners to maintain and develop family relationships in as normal a manner as possible*”.

There would also not be any restrictions on his contacts with other prisoners that are not related to his case.

***The Restrictions in place and as proposed are proportionate measures***

87. All of the existing and proposed Restrictions on the Accused's contacts are proportionate to the legitimate aims of preventing harm to witnesses and interference with the administration of justice.
88. Bearing in mind the risk that family members may be used by the Accused to pass on instructions to third parties or seek to contact individuals on his behalf (including Prosecution witnesses), the Prosecution requests that the Chamber: (a) limit the list of non-privileged contacts to only his immediate family of his parents, wives, and children; (b) reiterate the notice previously given to the Accused that if he discusses his case with these family members or seeks to instruct them as he did previously to seek to contact individuals on his behalf regarding his case, the Chamber will exclude them from his list of contacts; and (c) explicitly order that any individuals who are affiliated with or members of the armed groups should be excluded from the list of contacts.
89. Although none of the existing or proposed Restrictions arise from a "special regime", the Accused should be treated as a high-risk ICC detainee, subject to a special regime, *akin* to national systems dealing with cases of anti-terrorism or organised crime.
90. In this case, the risks are extremely grave if the Accused passes on confidential information identifying any Prosecution witness, directly or indirectly, to members of Ansar Dine, AQIM, or supporters from amongst Tuareg nationalist armed groups. The ECHR has accepted that special security regimes may be necessary for particular prisoners charged or convicted for certain crimes,<sup>159</sup> for instance in cases of terrorism and organised crime.<sup>160</sup> The ECHR has endorsed restrictions where "*the special regime was instrumental in curtailing the contacts of [the prisoners] with the outside world and preventing them from organising [the crime]*".<sup>161</sup> In *Messina v Italy* the ECHR found that applying a special regime on Mafia prisoners restricting access to family -

<sup>159</sup> See e.g. *Van der Ven v Netherlands*, 4 February 2003, ECHR, para. 55; *Messina v Italy*.

<sup>160</sup> See e.g. *Van der Ven v Netherlands*, 4 February 2003, ECHR 2003-II, para. 55, See also *Ocalan v Turkey* (no.2), 18 March 2014, para. 160-164. Para. 160: the ECHR observed that: "*regulations on contacts with families for life prisoners in high-security prisons tend to limit the existing relations between the persons concerned and their original criminal environment in order to minimise the risk of their maintaining personal contacts with the criminal organisations*", Para. 161: "*many of the States parties to the Convention have stricter security regimes for dangerous prisoners. These regimes are based on stepping up surveillance of communications with the outside in respect of prisoners posing a particular threat to internal order in the prison and law and order outside*".

<sup>161</sup> See e.g. *Moiseyev v Russia*, 62936/00, 9 October 2008, ECHR, para. 254.

that included no access to a telephone or one call a month *in lieu* of a family visit - did not violate their right to private and family life in light of the security justifications, in particular protection of public safety and prevention of disorder or crime.<sup>162</sup>

91. The Accused's right to private and conjugal visits pursuant to regulation 185(2) of the Registry Regulations is not absolute. Regulations 180(1) and 185(2) of the Registry Regulations make it clear that private visits are discretionary and will not be granted if there is an order restricting contacts issued under regulation 101 of the Regulations. The Accused's instructions to his wife to inform an individual that he cannot speak freely as his calls are monitored, further underscores the need to maintain the prohibition on private visits.

### Conclusion

92. For all the foregoing reasons, the Prosecution requests that the Chamber: (a) on an urgent *interim* basis, maintain the existing Restrictions; and (b) when rendering its subsequent decision, maintain, at least until the end of the proceedings, the existing Restrictions and grant the additional restriction to limit the Accused's list of non-privileged contacts to his immediate family members and exclude any person who is a member of, affiliated with, or in contact with the Groups or any nationalist armed group.




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Fatou Bensouda  
Prosecutor

Dated this 21 November 2019

At The Hague, The Netherlands

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<sup>162</sup> *Messina v Italy*, where there was, *inter alia*, no access to telephone, limits on family visits (one per month and use of a screen), the Court found that this only imposed relative social isolation, noting that the applicant had some contact with other prisoners and some exercise and recreation.