

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/11-01/25
Date: 23 September 2026

TRIAL CHAMBER VII

Before: Judge Althea Violet Alexis-Windsor, Presiding Judge
Judge Miatta Maria Samba
Judge Beti Hohler

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

Public redacted version of "Prosecution's request to maintain the existing contact
restrictions until the end of the Prosecution's case-in-chief and to immediately
notify the VWU of any violations of the contact restrictions", ICC-01/11-01/25-184-
Conf-Exp, 14 September 2026

Source: Office of the Prosecutor

Document 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

M. Zavala Giler, Osvaldo

☐ Counsel Support Section

☒ Victims and Witnesses Unit

☒ Detention Section

☐ Victims Participation and
Reparations Section

☐ Other

A. INTRODUCTION

1. On 22 June 2026, Pre-Trial Chamber I provisionally granted the Prosecution’s request to maintain existing contact restrictions, imposing a number of measures until adjudication by the Trial Chamber.¹ The Prosecution respectfully requests that Trial Chamber VII (the “Chamber”) order the Registry to maintain in full the existing contact restrictions until the end of the Prosecution’s case-in-chief, subject to a periodic review. The Prosecution further requests that the Chamber order the Registry to immediately notify the Victims and Witnesses Unit (“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 and during the Prosecution’s case-in-chief. In light of these heightened risks, the requested measures are both necessary and proportionate. In particular, 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 annex 1 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 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.

C. PROCEDURAL HISTORY

5. On 16 July 2025, authorities of the Federal Republic of Germany arrested Mr Khaled Mohamed Ali EL HISHRI (“Mr EL HISHRI”) pursuant to a warrant of arrest issued against him by the Chamber on 10 July 2025.² [REDACTED].³

¹ ICC-01/11-01/25-144 (“Fourth Decision on Contact Restrictions”), paras. 19, 23 and p. 8.

² ICC-01/11-188.

³ [REDACTED].

6. On 4 August 2025, the Prosecution requested measures to restrict communications between Mr EL HISHRI and individuals outside the Detention Centre, to be implemented immediately upon his surrender to the International Criminal Court (“ICC” or the “Court”).⁴ The Chamber granted this request on an *interim* basis on 1 December 2025, pending final adjudication.⁵

7. On 31 October 2025, the Prosecution submitted a second request for restrictions between Mr EL HISHRI and his co-detainees.⁶ On 26 November 2025, the Chamber informed the Prosecution of its decision to dismiss the Prosecution’s Second Request and invited the Prosecution to liaise with the Registry in order to identify any additional feasible measures and submit an amended request.⁷

8. Following the Chamber’s invitation,⁸ the Prosecution amended its Second Request for Contact Restrictions on 1 December 2025⁹ and again on 4 December 2025 to separate Mr EL HISHRI from other Arabic-speaking detainees.¹⁰ On 20 February 2026, following its provisional order to impose contact restrictions, the Chamber partially granted the Prosecution’s First Request to restrict communications between Mr EL HISHRI and individuals outside the Detention Centre and fully granted the Prosecution’s Further Request to separate Mr EL HISHRI from other Arabic-speaking detainees.¹¹ The Chamber also ordered the Prosecution to submit a reasoned request to maintain the contact restrictions, if warranted, by no later than 13 April 2026.¹²

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

⁴ ICC-01/11-01/25-16-US-Exp (“First Request for Contact Restrictions”), a confidential redacted version (“CRV”) was filed on 3 December 2025, *see* ICC-01/11-01/25-16-Conf-Red.

⁵ *See* ICC-01/11-01/25-54-Conf-Anx9 (“Email Decision on Contact Restrictions”). *See also* First Request for Contact Restrictions, paras. 27-28; ICC-01/11-01/25-54-Conf-Anx16 (“Email Clarifications regarding Contact Restrictions”).

⁶ ICC-01/11-01/25-21-US-Exp (“Second Request for Contact Restrictions”), a CRV was filed on 3 December 2025, *see* ICC-01/11-01/25-21-Conf-Red2.

⁷ ICC-01/11-01/24-Conf (“First Decision on Contact Restrictions”).

⁸ First Decision on Contact Restrictions, para. 7.

⁹ ICC-01/11-01/25-25-US-Exp (“Amended Second Request for Contact Restrictions”), a CRV was filed on 4 December 2025, *see* ICC-01/11-01/25-25-Conf-Red.

¹⁰ ICC-01/11-01/25-31-Conf (“Further Request for Contact Restrictions”).

¹¹ ICC-01/11-01/25-70-Conf-Exp-Corr (“Second Decision on Contact Restrictions”), paras. 38, 45 and p. 20, a CRV as filed on 20 February 2026, *see* ICC-01/11-01/25-70-Corr-Red.

¹² Second Decision on Contact Restrictions, para. 47 and p. 20.

¹³ ICC-01/11-01/25-103-Conf-Exp (“First Request to Maintain Contact Restrictions”), a CRV was filed on 14 April 2026, *see* ICC-01/11-01/25-103-Conf-Red.

granted this request and ordered the Prosecution to submit a request to maintain the contact restrictions, if warranted, by no later than 22 June 2026.¹⁴

10. On 22 June 2026, the Prosecution requested that the existing contact restrictions be maintained until the commencement of trial, that the VWU be granted access to and review all recordings of Mr EL HISHRI's telephone conversations (past and future), and that the VWU be immediately notified of any breach of the contact restrictions.¹⁵ On 16 July 2026, the Chamber granted the Prosecution's request to maintain the existing contact restrictions and authorised VWU access to all existing and future recordings of Mr EL HISHRI's non-privileged telephone conversations. It further ordered that the Trial Chamber be immediately informed of any violations of the said restrictions.¹⁶

11. Pursuant to the foregoing decisions of the Pre-Trial Chamber, the following contact restrictions are currently in force:

- (i) **Prohibition on case-related discussions:** Mr EL HISHRI is prohibited from having any discussion related to the case, particularly on 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 preparation for upcoming hearings and possible provisional release. The Registry is instructed to inform those authorised to communicate with Mr EL HISHRI that they may not 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 Pre-Trial-Chamber limited 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 RoC. [REDACTED].¹⁷ [REDACTED]. [REDACTED]. If authorised, authorised persons must be [REDACTED]. The

¹⁴ ICC-01/11-01/25-118-Conf ("Third Decision on Contact Restrictions"), paras. 15, 16 and p. 7.

¹⁵ ICC-01/11-01/25-137-Conf-Exp ("Second Request to Maintain Contact Restrictions"), a CRV was filed on 24 June 2026, *see* ICC-01/11-01/25-137-Conf-Red.

¹⁶ Fourth Decision on Contact Restrictions, paras. 19, 23 and p. 8.

¹⁷ Email Decision on Contact Restrictions on 1 December 2025; Email Clarifications regarding Contact Restrictions on 9 December 2025.

Registry must 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;

- (iii) **Languages:** All non-privileged communications must be in either Standard or Libyan Arabic. Obscure or coded language aimed at bypassing or violating the ordered measures may not be used;
- (iv) **Restrictions on the use of speakerphones and prohibition of recordings:** The Registry is instructed 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 Pre-Trial-Chamber prohibited the use of speakerphone and the audio or video recording of any calls with Mr EL HISHRI, unless specifically authorised by the Registry for any given call for the purpose of facilitating communications with his family members;
- (v) **Active monitoring of non-privileged telephone calls:** The Registry is instructed 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:** The Chief Custody Officer is instructed to review all correspondence to and from Mr EL HISHRI and to intercept and confiscate correspondence when restrictions are believed to be violated;
- (vii) **Non-privileged visits:** The Registry is instructed to ensure that Mr EL HISHRI does not enter the visitation area with documents or materials pertaining to the ICC case against him; visitation areas must be 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 Mr EL HISHRI and must immediately end conversations when restrictions are believed to be violated and advise the Defence of the reason for doing so;
- (viii) **Violations:** The Registry is to inform the Chamber and the Defence whenever restrictions are not respected;¹⁸

¹⁸ Second Decision on Contact Restrictions, para. 38 and p. 20; Third Decisions on Contact Restrictions, para. 15 and p. 7; Fourth Decision on Contact Restrictions, para. 19 and p. 8.

- (ix) **Separation from Arabic-speaking detainees:** The Registry is instructed to implement a detention regime where Mr EL HISHRI will be held separately from other Arabic-speaking detainees;¹⁹
- (x) **VWU access to recordings of non-privileged telephone conversations:** The Pre-Trial Chamber granted VWU access to all existing and future recordings of Mr EL HISHRI's non-privileged telephone conversations.²⁰

D. SUBMISSIONS

12. The Prosecution requests that the Chamber (1) maintain the full set of existing contact restrictions until the end of the Prosecution's case-in-chief, and (2) order that the VWU be immediately notified of any violations of the contact restrictions to ensure that any breaches can be managed without delay. These measures are justified and proportionate to safeguard the safety and security of victims, [REDACTED] witnesses and their families as well as the integrity of the proceedings at the Court, including [REDACTED].

13. The Chamber may, under regulation 101(2) of the RoC, "prohibit, regulate or set conditions for contact between a detained person and any other person, with the exception of counsel". Restrictions can be ordered where there are reasonable grounds to believe that such contact:

- "(b) [c]ould prejudice or otherwise affect the outcome of the proceedings against a detained person, or any other investigation;
- (c) [c]ould be harmful to a detained person or any other person;
- (d) [c]ould 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".²¹

14. 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

¹⁹ Second Decision on Contact Restrictions, para. 45 and p. 20; Third Decision on Contact Restrictions, para. 15 and p. 7; Fourth Decision on Contact Restrictions, para. 19 and p. 8.

²⁰ Fourth Decision, para. 23 and p. 8.

²¹ Regulation 101(2), RoC.

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”.²²

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

15. The existing contact restrictions remain necessary and proportionate at this stage of the proceedings, as (i) the factual basis justifying their imposition remains the same; (ii) the risks they seek to address are even more pronounced in the trial phase; and (iii) the justifications for specific measures remain fully applicable.

16. First, the factual basis justifying the imposition of the existing contact restrictions remains the same. In imposing the contact restrictions, the Pre-Trial Chamber found the measures to be consonant with the law and necessary to prevent “the continuation of alleged witness interferences and other forms of evidence tampering or concealment [which] would greatly undermine the integrity of the proceedings and significantly affect the outcome of the proceedings against Mr EL HISHRI and [REDACTED]” and to reduce “the threat to the security, [...] and well-being of [victims, actual and potential witnesses, and their families]”.²³ The Pre-Trial Chamber subsequently extended the contact restrictions in May 2026, finding that “the potential and perceived Prosecution witnesses, as well as their families, continue to face concrete and genuine risks to their safety”.²⁴ It extended the contact restrictions again in July 2026, finding that “the information [...] points to concrete risks of interference so as to justify the extension of the existing contact restrictions”.²⁵ These risks have not diminished.

²² 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. See also Second Decision on Contact Restrictions, para. 34; Third Decision on Contact Restrictions, para. 13; Fourth Decision on Contact Restrictions, para. 19.

²³ Second Decision on Contact Restrictions, paras. 35-36, 38, 43-44 (at para. 43, the Chamber refers to “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”). See also First Request for Contact Restrictions, paras. 11-27; Second Request for Contact Restrictions, paras. 17-21; Further Request for Contact Restrictions, paras. 4-5.

²⁴ Third Decision on Contact Restrictions, para. 12. See also First Request to Maintain Contact Restrictions, paras. 7-14.

²⁵ Fourth Decision on Contact Restrictions, para. 15. See also Second Request to Maintain Contact Restrictions, paras. 13-20.

17. Since the Prosecution's last request to maintain contact restrictions, filed on 22 June 2026,²⁶ the Prosecution has been informed of [REDACTED], demonstrating that SDF/RADA maintains both the capability and motivation to identify and intimidate victims and [REDACTED] witnesses and their families:

- a. [REDACTED]. [REDACTED].²⁷
- b. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].²⁸
- c. [REDACTED],²⁹ [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].³⁰ This information is consistent with other information indicating that [REDACTED].³¹
- d. [REDACTED]. [REDACTED].³²

18. These reports demonstrate that SDF/RADA continues to possess the capability and motivation to interfere with and intimidate victims and [REDACTED] witnesses and their relatives, or otherwise prejudice the proceedings and that this capability directly translates into an ability to compromise the integrity of the proceedings, in particular if the existing contact restrictions were to be lifted or relaxed.

19. Together with [REDACTED],³³ these new incidents demonstrate [REDACTED], giving rise to immediate and serious risks to the safety, security, and well-being of victims, [REDACTED] witnesses, and their families. The campaign is characterised by the recurrent use of known SDF/RADA intimidation tactics, including [REDACTED],³⁴ [REDACTED],³⁵ [REDACTED]³⁶ and [REDACTED],³⁷ which are [REDACTED]. These methods underscore the gravity of the risks faced by victims and [REDACTED] witnesses and their families, and demonstrate that any illegitimate disclosure of information to Mr EL HISHRI and SDF/RADA could rapidly expose them to retaliation.

²⁶ Second Request to Maintain Contact Restrictions.

²⁷ Annex 1, p. 1.

²⁸ Annex 1, pp. 2-4.

²⁹ See [REDACTED].

³⁰ Annex 1, pp. 5-7.

³¹ See [REDACTED].

³² Annex 1, pp. 8-9.

³³ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

³⁴ See [REDACTED]; [REDACTED].

³⁵ See [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

³⁶ See [REDACTED]; [REDACTED].

³⁷ See [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

20. [REDACTED],³⁸ evidencing a deliberate and ongoing effort to undermine the judicial process. [REDACTED],³⁹ [REDACTED].⁴⁰ [REDACTED]⁴¹ [REDACTED].⁴² [REDACTED] in attempts to interfere with Prosecution witnesses or the proceedings underscores that [REDACTED].

21. 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].⁴³ Moreover, [REDACTED].⁴⁴ [REDACTED]⁴⁵ [REDACTED].⁴⁶ Moreover, media reporting⁴⁷ and [REDACTED]. [REDACTED].⁴⁸ This reinforces the critical importance of maintaining effective preventative measure to safeguard witness safety and security, [REDACTED].

22. As previously outlined in greater detail,⁴⁹ hostility towards the Court and those perceived to cooperate with it within certain segments of Libyan society further exacerbates risks faced by [REDACTED] witnesses. Moreover, the Prosecution has recently been made aware that a fabricated summons for KARA to appear as a witness before the Court is being circulated online. In the course of reviewing this matter, [REDACTED]. [REDACTED], the circulation of one fabricated document related to ICC proceedings and these incidents more generally illustrate the potential for both misinformation and confidential material to be rapidly disseminated. Moreover, the spread of misinformation and leaks of confidential information risk fuelling speculation, mistrust and hostility surrounding proceedings. Coupled with anti-ICC social media activity, this significantly heightens the risks to Prosecution witnesses through public exposure and stigmatisation, encouraging third-party interference, and lowering barriers to acts of intimidation or violence.

³⁸ [REDACTED]; [REDACTED].

³⁹ [REDACTED].

⁴⁰ [REDACTED].

⁴¹ [REDACTED].

⁴² [REDACTED].

⁴³ [REDACTED].

⁴⁴ [REDACTED].

⁴⁵ [REDACTED].

⁴⁶ [REDACTED].

⁴⁷ [REDACTED].

⁴⁸ [REDACTED].

⁴⁹ Second Request to Maintain Contact Restrictions, para. 17.

23. As repeatedly acknowledged by the Pre-Trial Chamber,⁵⁰ the absence of reported violations of the existing contact restrictions to date⁵¹ does not indicate that the underlying risks have diminished. 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. Significantly, [REDACTED].⁵² [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 [REDACTED] 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.

24. The risks of interference are further heightened by the fact that Mr EL HISHRI's family occupies a dominant position within SDF/RADA,⁵³ thereby underscoring the immediacy of the risks for [REDACTED] Prosecution witnesses. The prominent role of the EL HISHRI family within SDF/RADA creates a direct nexus between Mr EL HISHRI's personal contacts and the very entity from which the risks to witnesses emanate. Notably, [REDACTED].⁵⁴ In these circumstances, any confidential information disclosed during authorised communications with family members, whether inadvertently or advertently, may be swiftly transmitted to SDF/RADA through (other) family members who 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 as well as their family members. Accordingly, the fact that Mr EL HISHRI's family is deeply embedded within, and forms an integral part of, SDF/RADA warrants heightened scrutiny and robust contact restrictions, including for contacts with family members.

25. With regard to the proportionality of the existing contact restrictions, the Pre-Trial Chamber recognised that these measures do not constitute an undue interference with Mr EL

⁵⁰ Second Decision on Contact Restrictions, para. 37; Third Decision on Contact Restrictions, para. 13; Fourth Decision on Contact Restrictions, para. 16.

⁵¹ [REDACTED]; [REDACTED].

⁵² [REDACTED]; [REDACTED].

⁵³ See [REDACTED].

⁵⁴ [REDACTED]; [REDACTED]; [REDACTED].

HISHRI's right to private and family life.⁵⁵ In reaching this conclusion, the Pre-Trial Chamber considered, among other things, "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".⁵⁶ Those considerations continue to apply at the present stage of the proceedings. As set out above, the risks remain both serious and immediate, particularly in light of the [REDACTED] involving [REDACTED]. Against those risks, the restrictions entail only a limited and carefully circumscribed interference with Mr EL HISHRI's rights. The gravity and immediacy of the identified risks therefore continue to justify the existing contact restrictions, and the need to protect witnesses and preserve the integrity of the proceedings substantially outweighs the limited impact on the Accused's privacy and family life.

26. Second, as previously argued, 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];⁵⁷ [REDACTED]. [REDACTED]⁵⁸ 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 until the Prosecution's concludes its case-in-chief against Mr EL HISHRI. Considering the stakes at the trial stage are even higher than during the confirmation of charges proceedings, the incentives to obstruct the administration of justice and interfere have likewise increased, further reinforcing the necessity of maintaining robust contact restrictions.

27. The phase leading to trial further heightens the risk of interference as the identity of additional witnesses are disclosed, as acknowledged by the Pre-Trial Chamber.⁵⁹ On 2 September 2026, the Prosecution began the process of disclosing the identity of witnesses whose identity had been withheld during the confirmation of charges proceedings based on objectively justifiable risks to their physical and psychological well-being and/or their safety or

⁵⁵ Second Decision on Contact Restrictions, paras. 37, 43-44; Third Decision on Contact Restrictions, para. 15; Fourth Decision on Contact Restrictions, paras. 19, 22.

⁵⁶ Second Decision on Contact Restrictions, para. 43.

⁵⁷ First Request to Maintain Contact Restrictions, paras. 8, 12. *See also* [REDACTED].

⁵⁸ *See* Second Request to Maintain Contact Restrictions, para. 13 and para. 17 above.

⁵⁹ Fourth Decision on Contact Restrictions, para. 15.

that of their families.⁶⁰ [REDACTED].⁶¹ [REDACTED],⁶² [REDACTED].⁶³ [REDACTED].⁶⁴ In these circumstances, and in the light of SDF/RADA's demonstrated capacity and intent to interfere, the existing contact restrictions remain necessary to mitigate risks to victims, [REDACTED] witnesses and their families, and the integrity of the proceedings.

28. Finally, as regards the necessity and proportionality of the measures related to restrictions on contact with co-detainees and VWU access to telephone recordings, the Prosecution respectfully refers the Chamber to its prior, detailed submission in support of those measures and does not repeat them in full here.⁶⁵ The Prosecution nevertheless reiterates the key considerations underpinning the necessity and proportionality of (i) the separation of the accused from Arabic-speaking co-detainees and (ii) VWU access to Mr EL HISHRI's telephone recordings.

29. The separation of Mr EL HISHRI from Arabic-speaking co-detainees remains both necessary and proportionate to prevent Mr EL HISHRI from sharing confidential information through his fellow detainees. This measure is justified in light of Mr EL HISHRI and SDF/RADA's demonstrated ability to manipulate and exploit others for their personal benefits, their history of intimidation and disregard for legal constraints and judicial orders, and the heightened risks posed by their influence and resources.⁶⁶ The necessity of the measures is further reinforced by [REDACTED].⁶⁷ The measure also remains proportionate. As previously submitted,⁶⁸ it is narrowly circumscribed to address the identified risks, while allowing Mr EL HISHRI to associate with non-Arabic speaking detainees, participate in social and recreational activities, and retain access to common areas. Moreover, this measure is consistent with restrictions applied in comparable high-security detention settings in the Netherlands.⁶⁹ The serious and immediate risks identified above, together with the need to

⁶⁰ 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.

⁶¹ See e.g. [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁶² See [REDACTED].

⁶³ See [REDACTED].

⁶⁴ See e.g. [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁶⁵ Second Request for Contact Restrictions, paras. 15-26; Further Request for Contact Restrictions, paras. 4-5; Second Request to Maintain Contact Restrictions, paras. 22-23. *See also* Second Decision on Contact Restrictions, paras. 43-44; Fourth Decision on Contact Restrictions, para. 22.

⁶⁶ Second Request for Contact Restrictions, paras. 18-21.

⁶⁷ Second Request for Contact Restrictions, para. 20. *See also* Second Decision on Contact Restrictions para. 43.

⁶⁸ Further Request for Contact Restrictions, para. 4.

⁶⁹ Second Request for Contact Restrictions, para. 25.

safeguard witnesses and protect the integrity of the proceedings, justify the limited interference with Mr EL HISHRI's right to private and family life.

30. VWU access to MR EL HISHRI's telephone recordings likewise remains necessary and proportionate. As set out in detail previously,⁷⁰ such access materially enhances the ability to detect risks beyond the limits of real-time monitoring and provides an important additional safeguard against witness interference and the unauthorised dissemination of sensitive information [REDACTED]. Because of its specialised expertise and familiarity with the witnesses and risk profile in this case, the VWU is uniquely placed to identify references to witnesses, including aliases, coded language, indirect references, and communication patterns that may escape active monitoring by the Detention Centre staff. This additional safeguard is particularly important at the present stage of the proceedings when risks faced by victims, [REDACTED] witnesses, and their families are especially acute. In these circumstances, and as acknowledged by the Pre-Trial Chamber,⁷¹ the aims pursued combined with the gravity and immediacy of the risks involved outweigh the limited intrusion associated with VWU access.

2. Immediate notification to the VWU of any violations of the contact restrictions is necessary and proportionate to address the heightened risks in the trial phase

31. In addition to the existing contact restrictions, the Prosecution respectfully renews its request that the Chamber order the Registry to immediately notify the VWU of any breach of the contact restrictions. As previously argued before the Pre-Trial Chamber, any breach detected by staff members of the Detention Centre during active monitoring should immediately be communicated to VWU, in addition to the Chamber and the Defence.⁷² 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/RADA⁷³ and [REDACTED].⁷⁴ 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,

⁷⁰ Second Request to Maintain Contact Restrictions, paras. 22-23.

⁷¹ Fourth Decision on Contact Restrictions, para. 22.

⁷² See Second Decision on Contact Restrictions, para. 38(viii); Fourth Decision on Contact Restrictions, para. 19.

⁷³ See Pre-Confirmation Brief, para. 160.

⁷⁴ See [REDACTED]; [REDACTED]; [REDACTED].

the heightened risk levels during the trial phase as well as the volatile security situation in Libya, 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

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

- (i) order the Registry to maintain the existing contact restrictions until the end of the Prosecution's case-in-chief; and
- (ii) order Registry to immediately inform VWU of any breach of the contact restrictions in place.

A handwritten signature in black ink, appearing to read 'Mandiaye Niang', with a large, stylized initial 'M' on the left.

Mame Mandiaye Niang
Acting Prosecutor

Dated this 23rd day of September 2026

At The Hague, The Netherlands