

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 1 June 2012

PRE-TRIAL CHAMBER I

Before: Judge Silvia Fernández de Gurmendi, Presiding Judge
Judge Hans-Peter Kaul
Judge Christine Van den Wyngaert

SITUATION IN LIBYA

**IN THE CASE OF
THE PROSECUTOR *v.*
SAIF AL-ISLAM GADDAFI and ABDULLAH AL-SENUSSI**

Public Document

Decision on the OPCD's "Urgent Request for Extension of Time"

Decision to be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor

Luis Moreno-Ocampo

Fatou Bensouda

Counsel for the Defence

Xavier-Jean Keïta

Melinda Taylor

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Paolina Massidda

**The Office of Public Counsel for the
Defence**

States Representatives

Philippe Sands

Payam Akhavan

Michelle Butler

Amicus Curiae

REGISTRY

Registrar

Silvana Arbia

Deputy Registrar

Didier Preira

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Others

Pre-Trial Chamber I (“Chamber”) of the International Criminal Court issues the following decision on the “Urgent Request for Extension of Time” (“Request”),¹ submitted by the Office of Public Counsel for defence (“OPCD”).

1. On 27 April 2012, the Chamber issued the “Decision on OPCD Requests”, wherein it, *inter alia*, ordered the Registrar to make the necessary arrangements for a visit to Saif Al-Islam Gaddafi (“Mr Gaddafi”) by representatives of the Registry and by the appointed counsel from the OPCD.²
2. On 1 May 2012, the Chamber received the “Application on behalf of the Government of Libya pursuant to Article 19 of the ICC Statute”, challenging the admissibility of the case against Mr Gaddafi (“Admissibility Challenge”).³
3. On 4 May 2012, the Chamber issued the “Decision on the Conduct of the Proceedings Following the ‘Application on behalf of the Government of Libya pursuant to Article 19 of the Statute’”,⁴ wherein it, *inter alia*, invited the Prosecutor, the OPCD, the Security Council and the Office of Public Counsel for victims to submit their observations on the Admissibility Challenge, no later than 4 June 2012.⁵
4. On 31 May 2012, the OPCD filed the Request, seeking an extension of the time limit for its observations on the Admissibility Challenge “until at least two working days after the Defence returns to The Hague upon the conclusion of a successful (privileged) visit with Mr. Gaddafi”. The OPCD states that “[a]t this point in time [...] it cannot be definitively confirmed that the visit will occur” and that “it is imperative that the delay in implementing the visit does not prejudice Mr. Gaddafi’s right to effectively participate in the

¹ ICC-01/11-01/11-162-Conf. A public redacted version is also available (ICC-01/11-01/11-162-Red).

² ICC-01/11-01/11-129, p. 7.

³ ICC-01/11-01/11-130-Conf and annexes. A public redacted version is also available (ICC-01/11-01/11-130-Red).

⁴ ICC-01/11-01/11-134.

⁵ *Ibid.*, p. 7.

admissibility proceedings". The OPCD further argues that "it is essential that the Defence can consult with Mr. Gaddafi in relation to the main arguments, which will be raised in the Defence response," and that "[t]he right of the Defence to be heard in connection with the admissibility challenge will only be effective if the Defence can submit its observations after obtaining instructions from Mr. Gaddafi". Finally, the OPCD states that it will need at least two working days after the return from the visit to prepare its observations on the Admissibility Challenge.⁶

5. The Chamber notes regulation 35(2) of the Regulations of the Court ("Regulations"), which provides that the Chamber may extend a time limit if good cause is shown.

6. The Chamber considers that the circumstances referred to by the OPCD, in particular that the visit to Mr Gaddafi following the "Decision on OPCD Requests" has not yet taken place and that it would be beneficial for the OPCD to obtain direct instructions from Mr Gaddafi prior to filing its observations on the Admissibility Challenge, constitute "good cause" within the meaning of Regulation 35(2) of the Regulations.

7. The Chamber further notes that, on 30 May 2012, Libya stated that it was its expectation that a visit for the OPCD and the Registrar to Mr Gaddafi would be arranged "in the coming days", and anticipates that "if [...] there were to be further unforeseen delays in facilitating these imminent visit, the Libyan Government would have no objection to the deadline to the OPCD's response to the admissibility challenge being extended by the Pre-Trial Chamber".⁷ Moreover, the Chamber is satisfied that the requested extension would not prejudice the other participants in the proceedings following the Admissibility Challenge.

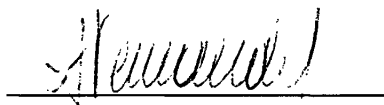
⁶ Request, paras. 7, 9-10, 12-13, 17.

⁷ ICC-01/11-01/11-160, para. 25.

FOR THESE REASONS, THE CHAMBER

GRANTS the OPCD until two working days after its return from the privileged visit to Mr Gaddafi to file its observations on the Admissibility Challenge.

Done in both English and French, the English version being authoritative.



Judge Silvia Fernández de Gurmendi

Presiding Judge



Judge Hans-Peter Kaul



Judge Christine Van den Wyngaert

Dated this 1 June 2012

At The Hague, The Netherlands