



Original: English

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

Date: 13 May 2013

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

Prosecution's Response to the Request by the Defence for Abdullah Al-Senussi for Access to All Confidential Filings, Decisions and Documents in Case ICC-01/11-01/11 Prior to the Appointment of Counsel for Mr. Al-Senussi

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

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Counsel for Abdullah Al-Senussi

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Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
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Didier Preira

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section Other**

1. On 26 April 2013, the Defence for Abdullah Al-Senussi filed its "Request for Access to All Confidential Filings, Decisions and Documents in Case ICC-01/11-01/11 prior to the Appointment of Counsel for Mr. Al-Senussi" ("Request").¹
2. On 3 May 2013, the Government of Libya notified the Pre-Trial Chamber that it did not object to the Request.²
3. On 6 May 2013, the Pre-Trial Chamber requested, via email correspondence, that the Prosecutor, the Defence for Saif Al-Islam Gaddafi, the OPCV and the Registrar respond to the Request, indicating whether each had any objection to the Defence for Mr. Al-Senussi being provided with their respective confidential filings.
4. The Prosecution hereby notifies the Pre-Trial Chamber that it does not object to the Defence for Mr. Al-Senussi being provided with the Prosecution's confidential filings that appear in the record prior to the appointment of counsel for Mr. Al-Senussi. The Prosecution notes that, as a matter of procedure, the Defence's access cannot extend to *confidential ex parte* filings.³
5. The Prosecution further notes that one type of information redacted from the public version of its response to Libya's Article 19 application⁴ was certain information provided by Libya about its domestic investigation which Libya had designated as confidential. Since Libya has not objected to the sharing of its confidential

¹ ICC-01/11-01/11-322.

² ICC-01/11-01/11-326.

³ Libya also made this point in its Response. See ICC-01/11-01/11-326.

⁴ ICC-01/11-01/11-167-Red.

documents with the Defence for Al-Senussi, the Prosecution defers to Libya in this regard.



Fatou Bensouda,

Prosecutor

Dated this 13th day of May 2013
At The Hague, The Netherlands