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

Date: 05 June 2014

PRE-TRIAL CHAMBER I

Before: Judge Silvia Fernández de Gurmendi, Single Judge

SITUATION IN LIBYA

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

Public

Prosecution Response to Libyan Application for extension of time related to the Pre-Trial Chamber I's "Decision requesting Libya to provide submissions on the status of the implementation of its outstanding duties to cooperate with the Court"

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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1. The Prosecution opposes the Libyan Application for extension of time (“Application”) to provide submissions on the status of its outstanding duties to cooperate with the Court, particularly with respect to its continuing obligation to surrender Saif Al-Islam Gaddafi to the Court.¹ Libya has not provided good cause to vary the time limit for the filing of its submissions² and the Application should be denied.

2. The Decision requested Libya to provide the Chamber with “the status of the implementation” of its “duty to immediately surrender Mr Gaddafi to the Court.”³ This request plainly concerned the current status of Libya’s implementation of its duty to surrender Mr Gaddafi. Rather than providing any information on the current status of this obligation, Libya argues that two reasons justify the granting of additional time: (1) a surge in attacks in May 2014 against the government, which has required the Libyan authorities to focus their resources on restoring stability and order; and (2) an election will take place on 25 June 2014.⁴ Neither of these reasons warrants an extension of the deadline.

3. First, regarding the instability in Libya, the Prosecution notes that the obligation to surrender Mr Gaddafi has been in place since 31 May 2013.⁵ Accordingly, the Libyan authorities should be well aware of the current status of the implementation of its duty to surrender Mr Gaddafi and to inform the Chamber of the same. Since such efforts should have been ongoing for some time, this query should not require extensive investigations to address, such that the current instability in the country would have prevented the relevant authorities from recalling such efforts and conveying them to the Court.

¹ Libyan Application for extension of time related to the Pre-Trial Chamber I’s “Decision requesting Libya to provide submissions on the status of the implementation of its outstanding duties to cooperate with the Court”, 28 May 2014, ICC-01/11-01/11-548.

² Regulation 35(2) of the Regulations of the Court.

³ Decision requesting Libya to provide submissions on the status of the implementation of its outstanding duties to cooperate with the Court, 15 May 2014, ICC-01/11-01/11-545 (“Decision”), p. 7.

⁴ Application, para. 6.

⁵ Decision, para. 3.

4. Second, Libya asserts that “the new Government (once formed) will be better placed to update the Court on these matters.”⁶ It is for the present authorities, not those yet to be elected, to satisfy the Chamber’s current outstanding requests. The fact that at some point a new government will be sworn in is immaterial to Libya’s ability to comply with these requests.

Conclusion

5. As Libya has not shown good cause to vary the time limit imposed by the Chamber, the Application should be denied.



Fatou Bensouda, Prosecutor

Dated this 5th day of June 2014

At The Hague, The Netherlands

⁶ Application, para. 7.