



Original: English

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

Date: 20 August 2014

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, with Confidential Annex 1

Libyan Government's application for extension of time for the purposes of compliance with Pre-Trial Chamber I's 'Decision on matters related to Libya's duties to cooperate with the Court'

Source: The Government of Libya, represented by:
Professor Ahmed El-Gehani
Professor Philippe Sands QC
Professor Payam Akhavan
Ms Michelle Butler

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

The Office of the Prosecutor

Ms. Fatou Bensouda

Counsel for the Defence

Counsel for Saif Al-Islam Gaddafi:

Mr. John R.W.D Jones QC

Ms. Sarah Bafadhel

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants
(Participation/Reparation)**

The Office of Public Counsel for Victims

Ms. Paolina Massidda

Ms. Sarah Pellet

Mr. Mohamed Abdou

The Office of Public Counsel for the Defence

State's Representatives

Professor Ahmed El-Ghani

Professor Philippe Sands QC

Professor Payam Akhavan

Ms. Michelle Butler

Amicus Curiae

REGISTRY

Registrar

Mr. Herman von Hebel

Counsel Support Section

Deputy Registrar

Mr. Didier Daniel Preira

Victims and Witnesses Unit

Detention Section

INTRODUCTION

1. On 28 May 2014, the Libyan Government requested an extension of time for the purpose of, *inter alia*, providing submissions to the Chamber concerning implementation of its duty to return the originals of materials seized from the former Defence counsel for Mr. Gaddafi, and the destruction of any copies thereof.¹ On 11 July 2014, Judge Silvia Fernández de Gurmendi, Single Judge responsible for carrying out the functions of Pre-Trial Chamber I (the “Chamber”) of the International Criminal Court (the “Court”), issued a decision extending time, in this regard, until 20 August 2014.²

SUBMISSIONS

2. The Libyan Government’s Request of 28 May 2014 was in furtherance of its policy of continuing co-operation with the Court, and to ensure that the submissions provided would accurately reflect the progress made by Libya in respect of its obligations. An extension was needed at that time because of security issues in Libya, and the imminent parliamentary elections.³
3. The Libyan Government has already described the difficulties that it faced in May 2014, when there was a surge in attacks against the Government, particularly in Tripoli and Benghazi, and the concern expressed in this regard by the UN Support Mission in Libya.⁴ Since then, there has been considerable progress. Despite a challenging security situation, on 21 July Libya’s electoral commission announced the results of the 25 June parliamentary election⁵ referred to in the Request of 28 May.
4. The need for the present request arises from recent events in Libya, which include attacks on Tripoli by extremist forces seeking to undermine the post-

¹ ICC-01/11-01/11-548 (‘Request of 28 May’).

² ICC-01/11-01/11-563

³ ICC-01/11-01/11-548.

⁴ ICC-01/11-01/11-548.

⁵ http://magharebia.com/en_GB/articles/awi/newsbriefs/general/2014/07/22/newsbrief-02

revolution democratic process and government. These include bombing attacks in Tripoli⁶ that have disrupted both travel and effective communication between Zintan and Tripoli. This has prevented discussions with the local authorities in Zintan directed at obtaining the material that the Libyan Government is seeking to return to the Court, in compliance with the Request.

5. Clearly, given such circumstances, the Government's efforts and priorities have remained focused upon protecting the public and responding appropriately to such challenges. This includes Libya's co-operation with the international community,⁷ reflecting the approach that it is taking to its relationship with the Court, as evidenced – among other things – by its signing of the Memorandum of Understanding with the Registry.
6. Despite the considerable challenges, the Libyan Government has remained committed to democratic means of dealing with the current challenges, and to upholding the Rule of Law. On 2 August 2014, Libya's newly elected parliament was holding an emergency meeting to discuss the security situation.⁸ This was followed on 12 August 2014 by approval of a constitutional amendment for the direct election of an interim president.⁹ Such measures were vital in order to restore stability to Tripoli. The interim nature of the directly elected president must be emphasized, and during this period, it has not been possible to take effective instructions from the Libyan Government, as it is fully occupied with dealing appropriately and effectively with the circumstances on the ground. It must be emphasised that these interim arrangements were approved only one week prior to the present filing.

⁶ <http://www.bbc.co.uk/news/world-africa-28840655>

⁷ See, for example, <http://www.ibtimes.com/airstrikes-libya-kill-six-no-one-knows-who-responsible-1663134> which describes the role of the U.K., Italy and Turkey in training Libya's military as part of an agreement to train general-purpose forces. On the role of Libyan Justice Minister Salah al-Mirghani in engaging with the international community, see <http://www.bbc.co.uk/news/world-africa-28418925>.

⁸ <http://www.aljazeera.com/news/middleeast/2014/08/libya-parliament-hold-emergency-meeting-201481151516911280.html>

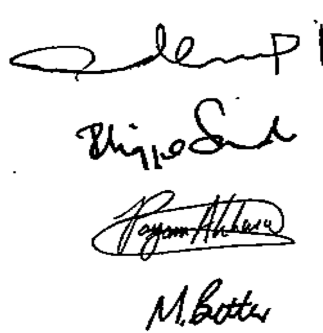
⁹ <http://af.reuters.com/article/libyaNews/idAFL6N0QI3FO20140812> ; <http://www.naharnet.com/stories/en/142960>

7. Whilst the facts of the present situation were not foreseeable at the time of making the Request of 28 May 2014, similar considerations underpin the present request. The Libyan Government is grateful to the Court for its consideration of the unique and challenging circumstances to date, and respectfully submits that the current circumstances should also be appreciated and taken into account by the Court.
8. Despite the setbacks that the Libyan Government has encountered during this month so far, it is resolute in its commitment to stabilizing the situation. Libya therefore requests an extension of time of ten weeks (i.e., until 29 October 2014) so that a proper, fully informed, response can be provided to the Court's request for information.

CONCLUSION

9. For all the reasons outlined above, Libya accordingly respectfully seeks an extension of ten further weeks to respond to the Request for submissions to the Chamber concerning implementation of its duty to return the originals of materials seized from the former Defence counsel for Mr. Gaddafi, and the destruction of any copies thereof. Libya reaffirms its continuing commitment to cooperate with the Court.

Respectfully submitted:



The block contains four handwritten signatures stacked vertically. The first signature is a cursive 'A' followed by 'hmed El-Gehani'. The second is 'Philippe Sands'. The third is 'Payam Akhavan'. The fourth is 'M. Butler'.

Professor Ahmed El-Gehani
Professor Philippe Sands QC
Professor Payam Akhavan
Ms Michelle Butler
*Libyan ICC Coordinator and
Counsel on behalf of the Government of Libya*

Dated this 20th day of August 2014
At London, United Kingdom