



Original: **English**

No.: ICC-01/11-01/11
Date: 11 November 2016

PRE-TRIAL CHAMBER I

Before: Judge Joyce Aluoch, Presiding Judge
Judge Cuno Tarfusser
Judge Péter Kovács

SITUATION IN LIBYA
IN THE CASE OF *THE PROSECUTOR v. SAIF AL-ISLAM GADDAFI*

Public Redacted Document

Public redacted version of “Prosecution’s Submission on the ‘Registry’s update on the implementation of the Chamber’s Order ICC-01/11-01/11-627””

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

Ms Fatou Bensouda, Prosecutor

Mr James Stewart, Deputy Prosecutor

Mr Julian Nicholls, Senior Trial Lawyer

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**

Mr Xavier-Jean Keita

States' Representatives

Mr Ahmed El Gehani, representative of
Libya at the International Criminal Court

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

Introduction

1. The Prosecution files this submission in relation to the "Registry's update on the implementation of the Chamber's Order ICC-01/11-01/11-627" ("Update").¹
2. For the reasons stated below, the Prosecution again requests that the Pre-Trial Chamber ("Chamber") order the Registry, in consultation and coordination with the Prosecutor, to transmit the request for the arrest and surrender of Saif Al-Islam Gaddafi ("Mr Gaddafi") to Mr al-'Ajami AL-'ATIRI ("Mr AL-'ATIRI"), Commander of the *Abu-Bakr al-Siddiq* Battalion based in Zintan, Libya.

Classification

3. This filing is classified as "*confidential*" since it refers to information contained in a confidential annex to the Update.

Procedural history

4. On 26 April 2016, the Prosecution filed its "Request for an order directing the Registrar to transmit the request for arrest and surrender to Mr al-'Ajami AL-'ATIRI, Commander of the *Abu-Bakr al-Siddiq* Battalion in Zintan, Libya" ("Request").²
5. On 2 June 2016, the Chamber ordered the Registrar to communicate with the Libyan authorities enquiring: (i) whether there is any recent coordination or liaison between them and the militia in Zintan as alleged; (ii) whether the Libyan authorities would agree that a request for arrest and surrender of Mr Gaddafi to the Court be addressed to the militia in Zintan; and, if so, (iii) whether the Libyan authorities would either facilitate, in accordance with their obligation to fully cooperate with the Court, the transmission to the relevant local authorities in Zintan of such request or,

¹ ICC-01/11-01/11-632.

² ICC-01/11-01/11-624.

alternatively, agree for a direct transmission by the Court of that request to those local authorities.³

6. On 28 October 2016, the Registry filed the Update.⁴ Annex 4 to that filing contained a summary of the discussions held by the Registry with the Representative of Libya⁵ and Annex 5 contained a reply from Libya's Attorney General's Office, dated 29 September 2016.⁶ Both of these annexes were classified as confidential.⁷

Submissions

7. [REDACTED].

8. [REDACTED].⁸

9. [REDACTED]⁹ [REDACTED].

10. [REDACTED] the Chamber should take practical measures within its power to facilitate the execution of the pending request for arrest and surrender. That is, the Chamber should exercise its power to directly address, via the Registry, the *de facto* authorities with actual physical control over Mr Gaddafi.

Relief sought

11. The Prosecution renews its request to the Chamber to order the Registry, in consultation and coordination with the Prosecutor, to transmit the request for the

³ ICC-01/11-01/11-627.

⁴ ICC-01/11-01/11-632 (notified on 31 October 2016).

⁵ ICC-01/11-01/11-632-Conf-Anx4.

⁶ ICC-01/11-01/11-632-Conf-Anx5.

⁷ Annex 5 was classified as confidential because the Registry was unable to reach the Representative of Libya to verify the level of classification to be applied: ICC-01/11-01/11-632, para.2.

⁸ [REDACTED].

⁹ [REDACTED].

arrest and surrender of Mr Gaddafi to Mr al-'Ajami AL-'ATIRI, Commander of the *Abu-Bakr al-Siddiq* Battalion based in Zintan, Libya.



Fatou Bensouda
Prosecutor

Dated this 11th day of November 2016

At The Hague, The Netherlands