

ANNEX A

**PUBLIC REDACTED
VERSION**

**INTERNATIONAL CRIMINAL COURT
OFFICE OF THE PROSECUTOR**

DECLARATION OF [REDACTED]

1. I, [REDACTED] respectfully submit this Declaration.
2. My full name is [REDACTED] I am an Investigator in the ICC Office of the Prosecutor (hereafter OTP).

Professional Background

3. I am a [REDACTED] citizen; I speak, read and understand Arabic, [REDACTED] and English.
4. I hold two degrees obtained from [REDACTED] The first is a [REDACTED] from the University of [REDACTED] [REDACTED] and the second is an [REDACTED] [REDACTED] from the University of [REDACTED] ([REDACTED]). My first degree is a [REDACTED] from the University of [REDACTED] [REDACTED].
5. I have edited many legal books in Arabic and I have written several legal articles including for example ' [REDACTED]
[REDACTED]
[REDACTED] [REDACTED] [REDACTED]
6. I joined the OTP as an investigator on [REDACTED]

My assignment to the OTP Libya Investigation Team

7. I have been involved in the investigation matters associated with the Libyan conflict since early March 2011.

Source of information contained herein

8. The facts set forth in this declaration are based upon my personal knowledge, training and experience, personal involvement in this investigation, information conveyed to me by government officials, conversations I have had with other persons and my review of records, documents and open source information obtained during the investigation.



9. I have not set forth each and every fact learned during the course of the investigation. Rather I have set forth only the facts that I believe are necessary for the purpose of this Request.

My interaction with Mr Muhammad al-'Ajami al-'Atiri ("Mr AL-'ATIRI")

10. I have been requested by the Prosecution to provide a declaration which addresses;
- a. [REDACTED] and involvement with Mr AL-'ATIRI that [REDACTED] Libya on [REDACTED]
 - b. Information I received from the [REDACTED] in relation to the domestic custodial disposition of Saif Al-Islam Gaddafi ("Mr GADDAFI") and the involvement of Mr AL-'ATIRI in this matter.
 - c. A Libyan mobile telephone number used by Mr AL-'ATIRI.
 - d. My review of open source information depicting and/or involving Mr al-'Atiri and his involvement as a military and/or police official related to the custody of Mr GADDAFI.
 - e. My telephone conversation with Mr AL-'ATIRI which occurred on 11 March 2016 and information he provided during this conversation.

[REDACTED] Mr AL-'ATIRI

11. On 7 June 2012 four ICC staff members were on official mission when they were detained in the city of Zintan, Libya by an armed group. For the purposes of this declaration I will refer to those detained ICC members as the "ICC 4".
12. This matter was subsequently reported in an ICC Press release dated 9 June 2012. I produce a copy of that ICC Press Release.

See Annex A-1 - LBY-OTP-0044-9405

13. [REDACTED]
[REDACTED]
[REDACTED]
14. [REDACTED]
[REDACTED]

15. For security reasons all those involved travelled in a 7-vehicle convoy with security support of the United Nations. For the purposes of this declaration I will refer to all those who travelled to Zintan on this day, as the "convoy".
16. This meeting in Zintan was subsequently reported in an ICC Press release dated 15 June 2012. I produce a copy of that ICC Press Release.

See Annex A-1 - LBY-OTP-0044-9405 at 9406

17. Upon arrival in the vicinity of Zintan, all vehicles in the convoy were stopped at a checkpoint manned by armed men. In spite of the fact that the convoy had previously received permission from the Libyan government to travel to and enter Zintan, the convoy was initially prevented from travelling past the checkpoint by the armed persons.
18. The convoy remained at the checkpoint for a number of hours. Eventually a [REDACTED] Mr AL-'ATIRI arrived. [REDACTED] he personally checked the passports and UN Laissez-Passers of all persons in the convoy. It was readily apparent that Mr AL-'ATIRI was the sole person in control of the situation involving the travel to Zintan. Mr AL-'ATIRI eventually granted permission for the convoy to continue onwards to Zintan.
19. The convoy eventually arrived in Zintan and was taken to a Zintan Local Council building where Mr AL-'ATIRI was delivering a speech in Arabic [REDACTED] [REDACTED] that he personally decided to facilitate the visit of the convoy in cooperation with the Libyan Prosecutor-General's office.
20. [REDACTED] [REDACTED] Mr AL-'ATIRI [REDACTED] then drove [REDACTED] to a location where the ICC 4 were detained. The rest of the convoy followed in separate vehicles.
21. It was clear [REDACTED] that Mr AL-'ATIRI was the person who was in complete command and control of the situation. Upon arrival at this second location and in [REDACTED] [REDACTED] Mr AL-'ATIRI inform the convoy of the conditions regarding the conduct of the meeting with the ICC 4. [REDACTED] one condition included that that there would be no direct discussions permitted between any ICC staff members and the ICC 4 without his personal approval.
22. [REDACTED] the meeting with the ICC 4 would only proceed if Mr AL-'ATIRI was satisfied that conditions he set were to be complied with.
23. After all those in the convoy agreed to the conditions, Mr AL-'ATIRI subsequently ordered some armed persons, who appeared to be guards, to bring the ICC 4 into the room where [REDACTED] the convoy were waiting.
24. The meeting subsequently took place and the convoy eventually left and returned to Tripoli.



Information received from the [REDACTED]

25. In 2016 I have had several telephone calls with staff from the [REDACTED] in relation to the investigation and prosecution of Mr GADDAFI in the domestic criminal trial docketed as Case Number 630/2012 in the Tripoli Appeals Court.
 26. During these telephone conversations, I was informed by [REDACTED] staff of the following points:
 - a. Mr AL-'ATIRI is the head of the Judicial Police in Zintan.
 - b. He is in charge of the detention of Mr GADDAFI.
 - c. Mr AL-'ATIRI received a salary from the Libyan Ministry of Justice until he ceased all cooperation with the Libyan Prosecutor-General's office on the issue of Mr GADDAFI's attendance in his domestic criminal trial.
 - d. Mr AL-'ATIRI ceased his cooperation with the Libyan Ministry of Justice in relation to the domestic trial of Mr GADDAFI in April 2015 and, that Mr GADDAFI is no longer under any official judicial police authority.
 27. On 26 January 2016 I attended a meeting in [REDACTED] with staff from the [REDACTED]. During this meeting and as a result of an earlier request from the OTP, I was provided a copy of the judgement issued by the domestic court in relation to Case Number 630/2012.
 28. I have reviewed this judgment and I produce the relevant page related to the Mr AL-'ATIRI where it was stated that the Chief of judicial police in Zintan meaning Mr AL-'ATIRI sent a letter on 14 April 2015 informing that he was outside the remit of the judicial police authority.
- See Annex A-2 - LBY-OTP-0051-0004 at 0149, LBY-OTP-0044-9421 (English translation)**
29. As a result of an earlier request from the OTP, on 17 April 2016 I received copies of three documents from the [REDACTED]
 30. I was informed by staff from the [REDACTED] that these three documents were addressed to the Head of the Reform and Rehabilitation Institution in Zintan on the basis that its head, Mr AL-'ATIRI, was responsible for the custody of Mr GADDAFI.



31. I produce a copy of a document from the [REDACTED] addressed to the Head of the Reform and Rehabilitation and Institution in Zintan dated 28 September 2014, requesting that Mr GADDAFI be brought to the Zintan Court of First Instance on 12 October 2014 at 9:00 a.m.

See Annex A-3 - [REDACTED]

32. I produce a copy of a document from the [REDACTED] to the Head of the Reform and Rehabilitation Institution in Zintan dated 28 October 2014, requesting the facilitation of a visit of [REDACTED] of the UN Mission in Libya to Mr Gaddafi.

See Annex A-4 - [REDACTED]

33. I produce a copy of a document from the [REDACTED] addressed to the Head of the Reform and Rehabilitation and Institution in Zintan dated 11 November 2014, requesting that Mr Gaddafi be brought to the Zintan Court of First Instance on 16 November 2014 at 9:00 a.m.

See Annex A-5 - [REDACTED]

34. In response to an OTP request, on 19 April 2016 I received a copy of a letter addressed to the ICC Prosecutor [REDACTED]

35. This letter confirms that, *inter alia*, as of 19 April 2016, for the duration of his ongoing provisional detention, Mr GADDAFI has been located in the Zintan Rehabilitation and Reform Institution. Further that his protection and security are entrusted to the *Abu-Bakr al-Siddiq Battalion* led by Mr AL-'ATIRI.

36. I produce a copy of that letter.

See Annex A-6 - [REDACTED]

Review of open source information related to Mr AL-'ATIRI

37. In March 2016 I reviewed open sources in an attempt to identify publicly available video files involving Mr AL-'ATIRI and his involvement in the detention of Saif Al-Islam Gaddafi.

38. [REDACTED] Mr AL-'ATIRI [REDACTED] on 12 June 2012 and based on my background knowledge of issues associated with the detention of Mr

GADDAFI, I subsequently selected two (2) open source video files depicting Mr AL-'ATIRI discussing the issue of Mr GADDAFI and his detention.

39. I produce a copy of video file <https://www.youtube.com/watch?v=iPdDgSdGmRc> uploaded on 11 October 2012. This is an interview with Mr AL-'ATIRI discussing Mr GADDAFI's health.

See Annex A-7 - LBY-OTP-0044-8981, LBY-OTP-0044-9425 (Arabic language transcript), LBY-OTP-0044-9427 (English translation of the transcript)

40. I produce a copy of video file <https://www.youtube.com/watch?v=kbo3L71zMqg> uploaded on 5 Nov 2013. This is an interview with Mr AL-'ATIRI where he provides information in relation to the arrest of the ICC 4, and that he personally permitted the *Al-Asema* television channel to interview Mr GADDAFI for the first time.

See Annex A-8 - LBY-OTP-0044-9122, LBY-OTP-0044-9432 (Arabic language transcript), LBY-OTP-0044-9438 (English translation of the transcript)

Contact telephone number used by Mr AL-'ATIRI

41. On 9 March 2016 I obtained a Libyan mobile telephone number that I understood at the time was being used by Mr AL-'ATIRI. That number [REDACTED]

My telephone conversation with Mr AL-'ATIRI

42. At approximately 9:30 a.m. on 11 March 2016 I called Libyan telephone number [REDACTED]. The call was answered by a male person. I spoke in Arabic and introduced and identified myself, and the person I spoke to identified himself as Mr AL-'ATIRI. He agreed to speak to me.

43. [REDACTED]

44. Mr AL-'ATIRI stated that he was head of Judicial Police Authority in Zintan and also the head of guards in control of Mr Gaddafi's detention.

45. I informed Mr AL-'ATIRI that the Libya situation was referred to the ICC by the UN Security Council under Chapter 7 of the UN Charter and that Libya was obliged to cooperate with the ICC. I also informed Mr AL-'ATIRI of the key legal decisions made by the ICC in relation to Mr Gaddafi namely: the issuance of the arrest warrant for Mr GADDAFI; the challenge brought by Libya in relation to

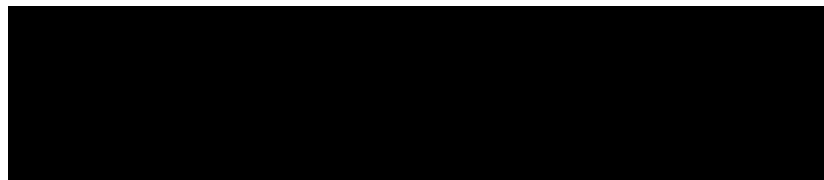


the admissibility of the case before the Court; the Court's decision that the case was admissible; the finding of the Appeals Chamber confirming this decision; and the consequent finding by the Court that Libya must surrender Mr GADDAFI to the custody of the ICC.

46. Mr AL-'ATIRI stated that these issues should be dealt with the Libyan government and that he had no legal background in which to understand all legal implications related to the extradition of Mr GADDAFI to the custody of the ICC.
47. Mr AL-'ATIRI also stated that the Libyan Parliament located in Tobruk, had issued a general amnesty around July or September 2015 in relation to all prisoners, including Mr GADDAFI, and as a result Mr GADDAFI was no longer wanted for any crimes.
48. On that basis I asked Mr AL-'ATIRI why he still kept Mr GADDAFI in custody. Mr AL-'ATIRI responded stating that he was awaiting instructions from the Libyan government and specifically from the Minister of Justice who was in Bayda.
49. I told Mr AL-'ATIRI that Libya was obligated to transfer Mr GADDAFI to the ICC and that the ICC did not take into account the domestic amnesty.
50. Mr AL-'ATIRI also confirmed that he had previously cooperated with the domestic court in Tripoli by facilitating the video link for Mr GADDAFI's domestic trial.
51. Mr AL-'ATIRI then stated that he had ceased this cooperation after militias had taken control of Tripoli in July 2014 as he no longer recognised the court or the authorities in Tripoli.
52. I asked Mr AL-'ATIRI regarding the conditions of Mr GADDAFI's detention whereby he replied stating that Mr GADDAFI was in good health.

DECLARATION

I hereby acknowledge that this declaration is true and correct to the best of my knowledge and belief.



Dated: 26 April 2016
 The Hague
 The Netherlands

