

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 26 July 2012

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 Document

**Decision on the “Libyan Government Application for leave to reply to any
Response/s to article 19 admissibility challenge”**

Decision to be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor

Fatou Bensouda

Counsel for the Defence

Xavier-Jean Keïta

Melinda Taylor

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Paolina Massidda

**The Office of Public Counsel for the
Defence**

States Representatives

Philippe Sands

Payam Akhavan

Michelle Butler

Amicus Curiae

REGISTRY

Registrar

Silvana Arbia

Deputy Registrar

Didier Preira

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Others

Pre-Trial Chamber I (the “Chamber”) of the International Criminal Court issues the following decision on the “Libyan Government Application for leave to reply to any Response/s to article 19 admissibility challenge” (the “Application”).¹

1. On 1 May 2012, the Chamber received the “Application on behalf of the Government of Libya pursuant to Article 19 of the ICC Statute”, challenging the admissibility of the case against Saif Al-Islam Gaddafi (the “Admissibility Challenge”).²

2. On 4 May 2012, the Chamber issued the “Decision on the Conduct of the Proceedings Following the ‘Application on behalf of the Government of Libya pursuant to Article 19 of the Statute’”,³ wherein it, *inter alia*, invited the Prosecutor, the Office of Public Counsel for defence (the “OPCD”), the Security Council and the Office of Public Counsel for victims (the “OPCV”) to submit their responses to the Admissibility Challenge, no later than 4 June 2012.⁴ The time limit for the OPCD was subsequently extended, and eventually set for 24 July 2012.⁵

3. On 18 May 2012, Libya filed the Application, wherein it requests leave to reply to any response which may be filed by the Prosecutor, the OPCD, the Security Council and the OPCV.⁶ Libya further requests the Chamber to set a deadline for such reply, if authorised, of 18 days following notification of the response(s) to counsel for Libya.⁷

¹ ICC-01/11-01/11-150.

² ICC-01/11-01/11-130-Red.

³ ICC-01/11-01/11-134.

⁴ *Ibid.*, p. 7.

⁵ ICC-01/11-01/11-187-Red.

⁶ Application, para. 11.

⁷ *Ibid.*

4. On 21 May 2012, the OPCD and the OPCV filed responses to the Application,⁸ both requesting the Chamber to reject the Application as unfounded in the absence of a concrete basis for filing a reply.

5. The responses to the Admissibility Challenge by the Prosecutor⁹ and the OPCV,¹⁰ and by the OPCD¹¹ (collectively, the “Responses”) were filed on 4 June 2012 and 24 July 2012 respectively.

6. The Chamber notes article 19 of the Rome Statute, rule 58 of the Rules of Procedure and Evidence and regulations 24 and 34 of the Regulations of the Court (the “Regulations”).

7. In particular, the Chamber notes that, pursuant to regulation 24(5) of the Regulations, “[p]articipants may only reply to a response with the leave of the Chamber” and that, if such leave is granted, the reply, according to regulation 34(c) of the Regulations, “shall be filed within ten days of notification [...] of the response”.

8. Having reviewed the substance of the Responses, and considering, as previously held, that “the triggering force and main actor in [admissibility] proceedings is the entity challenging the admissibility of the case, in the present case Libya”,¹² the Chamber deems it appropriate to authorise Libya to file a reply to the Responses. The Chamber emphasises that this reply is limited to the arguments raised in the Responses.

9. With respect to the time limit for such reply, the Chamber considers that, taking due account of the extensive submissions contained in the Responses, a longer period than the one envisaged by regulation 34(c) of the Regulations is

⁸ ICC-01/11-01/11-154 and ICC-01/11-01/11-155, respectively.

⁹ ICC-01/11-01/11-167-Red.

¹⁰ ICC-01/11-01/11-166-Red-Corr.

¹¹ ICC-01/11-01/11-190-Conf.

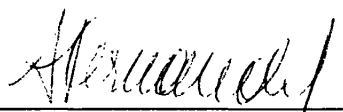
¹² ICC-01/11-01/11-159, para. 9.

warranted. Accordingly, the Chamber finds it appropriate to grant Libya until 13 August 2012 to file a reply to the Responses.


FOR THESE REASONS, THE CHAMBER

AUTHORISES Libya to file, no later than 13 August 2012, a reply to the Responses.

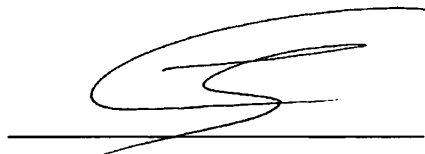
Done in both English and French, the English version being authoritative.



Judge Silvia Fernández de Gurmendi
Presiding Judge



Judge Hans-Peter Kaul



Judge Christine Van den Wyngaert

Dated this 26 July 2012

At The Hague, The Netherlands