

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 17 April 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

**Decision Appointing Counsel from the OPCD as Counsel for Saif Al-Islam
Gaddafi**

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

The Office of the Prosecutor

Luis Moreno-Ocampo

Fatou Bensouda

Counsel for the Defence

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims

The Office of Public Counsel for the Defence

Xavier-Jean Keïta

Melinda Taylor

States Representatives

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 (“Chamber”) of the International Criminal Court (“Court”) issues the following decision.

1. On 27 June 2011, the Chamber issued a warrant of arrest against, among others, Saif Al-Islam Gaddafi (“Mr Gaddafi”).¹
2. On 6 December 2011, a decision was issued (“6 December 2011 Decision”)² wherein the Chamber: (i) after considering regulation 77 of the Regulations of the Court (“Regulations”), authorised the OPCD to represent the interests of the Defence in all instances related to the proceedings against Mr Gaddafi until otherwise decided by this Chamber³ and (ii) declined to appoint counsel for Mr Gaddafi before receiving confirmation that a power of attorney was given to a specific counsel.⁴
3. From 29 February 2012 to 4 March 2012, pursuant to a decision of the Chamber ordering a visit to Libya,⁵ a joint Registry-OPCD delegation visited Libya. A visit to Mr Gaddafi by part of this delegation took place on 3 March 2012. The OPCD filed confidential, *ex parte* reports regarding this visit on 2 March 2012⁶ and 5 March 2012.⁷ In the latter report (“5 March 2012 OPCD Report”), the OPCD informed the Chamber that Mr Gaddafi requested for the OPCD to either select counsel or help him to select counsel.⁸ During the visit, Mr Gaddafi also signed a declaration stating that he was willing for the OPCD

¹ “Warrant of Arrest for Saif Al-Islam Gaddafi”, ICC-01/11-01/11-3.

² Pre-Trial Chamber I, “Public Redacted Version of Decision Requesting Libya to file Observations Regarding the Arrest of Saif Al-Islam Gaddafi”, ICC-01/11-01/11-39-Red, p. 6.

³ 6 December 2011 Decision, para. 8, p. 6.

⁴ 6 December 2011 Decision, p. 6.

⁵ “Decision on the Registry-OPCD Visit to Libya”, 3 February 2012, ICC-01/11-01/11-52 (reclassified as public on 4 April 2012).

⁶ “Urgent Report Concerning the Visit to Libya”, 2 March 2012, ICC-01/11-01/11-69-Red (public redacted version filed on 5 April 2012).

⁷ “Addendum to the Urgent Report Concerning the Visit to Libya”, 5 March 2012, ICC-01/11-01/11-70-Red2 (“5 March 2012 OPCD Report”) (public redacted version filed on 10 April 2012).

⁸ 5 March 2012 OPCD Submissions, paras 40-41.

to continue to represent him before the Court until a counsel is appointed (“Gaddafi Declaration”).⁹

4. The Chamber has considered rule 22 of the Rules of Procedure and Evidence and regulations 74, 75, 76 and 77 of the Regulations.

5. The Chamber notes that, per the Gaddafi Declaration, Mr Gaddafi indicates that he has no objection to being represented before the Court by the OPCD at this time. While the Gaddafi Declaration is not a formal power of attorney, the Chamber is mindful of the practical difficulties the OPCD faces in relation to representing Mr Gaddafi’s interests, including trying to ascertain Mr Gaddafi’s choice of counsel if indeed he wishes to have legal representation appointed for him.¹⁰ Under the present circumstances, the Chamber finds the Gaddafi Declaration to be sufficient evidence that Mr Gaddafi would like for the OPCD to fully represent him until such time as regular counsel is appointed.

6. As such, the Chamber considers it in the interests of justice to appoint counsel from the OPCD to represent Mr Gaddafi at this point in time pursuant to regulation 76(2) of the Regulations.

FOR THESE REASONS, THE CHAMBER HEREBY

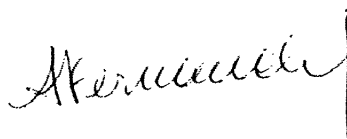
APPOINTS Xavier-Jean Keïta and Melinda Taylor from the OPCD as counsel for Mr Gaddafi; and

REMINDS the OPCD to continue to assist Mr Gaddafi in acquiring counsel, consistent with his wishes.

⁹ 5 March 2012 OPCD Submissions, para. 41.

¹⁰ See ICC-01/11-01/11-73-Conf-Exp.

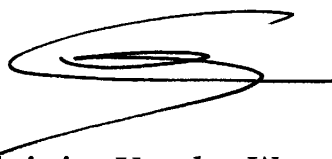
Done in both English and French, the English version being authoritative.



Judge Silvia Fernández de Gurmendi
Presiding Judge



Judge Hans-Peter Kaul



Judge Christine Van den Wyngaert

Dated this Tuesday, 17 April 2012

At The Hague, The Netherlands