



Coalition for the International Criminal Court

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**Coalition Calls for Immediate Release of Four ICC Staff Members
Detained in Libya**

*Libyan Authorities Must Uphold Obligations to Cooperate with ICC under UN Security
Council Resolution 1970*

New York/The Hague—The Coalition for the International Criminal Court—a global network of more than 2,500 non-governmental and civil society organizations in 150 countries advocating for a fair, effective and independent International Criminal Court (ICC)—today called on the competent Libyan authorities to immediately release four staff members of the International Criminal Court (ICC) detained in Libya since Thursday 7 June 2012. The ICC is the world's first and only permanent international court to prosecute war crimes, crimes against humanity and genocide.

The four ICC staff members are reported to have been detained after having travelled to Libya on 6 June to meet with Saif Al-Islam Gaddafi—a former senior official in the Libyan government and son of former Libyan leader of Muammar Gaddafi—who is wanted by the ICC for crimes against humanity allegedly committed in Libya since 15 February 2011. The ICC is reported to be communicating with the competent Libyan authorities to secure the release of the officials.

"It is utterly unacceptable that officials of an independent judicial institution have been detained while undertaking an official mission with the intention of ensuring that the rule of law is respected," said Sunil Pal, head of Coalition's legal section. "The Coalition implores the competent Libyan authorities to immediately release the detained ICC officials and allow them to continue their mission without hindrance," Pal added. "We also call upon the UN Security Council, as the authority that referred the Libya situation to the ICC in the first place, to do its utmost to ensure the safe release of the ICC staff members."

Saif Al-Islam has been in detention in Zintan, Libya, since 19 November 2011. On 1 June 2012, ICC Pre-Trial Chamber I suspended the execution of the order to transfer Saif Al-Islam to the Court pending a resolution of Libya's challenge to the admissibility of the ICC case.

The delegation of ICC officials from the Office of Public Counsel for the Defence—which has been initially appointed to represent Gaddafi—and the ICC Registry, the Court's administrative arm, are reported to have travelled to Libya to discuss the option of Gaddafi appointing counsel of his own choosing to represent him. The visit had been arranged by a decision of ICC Pre-Trial Chamber I on 27 April 2012, with the agreement of the Libyan government.

"United Nations Security Council Resolution 1970, which unanimously referred the situation in Libya to the ICC, unequivocally states that the Libyan authorities shall cooperate fully with and provide any necessary assistance to the Court," Pal continued. "It is imperative that the Libyan authorities respect their obligations under this resolution and cooperate with the ICC, this includes the safe passage of ICC personnel."

ICC President Judge Sang-Hyun Song has also request the immediate release of the ICC officials, and has called on the Libyan authorities to respect the immunity of ICC staff and the rights of suspects to have privileged contacts with their lawyers under the Rome Statute, the ICC's founding treaty.

Background: On 3 March 2011, the ICC prosecutor opened a formal investigation into the situation in Libya. The announcement came after the United Nations Security Council adopted Resolution 1970 (2011) on 26 February 2011, which referred the situation in Libya, a state not party to the Rome Statute, to the ICC. It was the second time that a situation was referred to the Court by the UNSC under its Chapter VII authority and the first time such a resolution was passed unanimously. On 27 June 2011, judges of ICC Pre-Trial Chamber I issued arrest warrants against Libyan leader Muammar al-Gaddafi, his son Saif al-Islam al-Gaddafi and Libyan head of intelligence Abdullah al-Senussi for alleged crimes against humanity committed in Libya since 15 February 2011. On 19 November 2011, Saif Al-Islam Gaddafi was arrested by Libyan authorities. On 20 November, Abdullah Al-Senussi was also reportedly captured in the south of Libya. On 22 November 2011, PTC I decided to terminate the case against Muammar al-Gaddafi following his death. On 17 March 2012, Al-Senussi was arrested in Mauritania. On 19 November 2011, Al-Islam Gaddafi was detained in Zintan, Libya, and on 4 April 2012, PTC I rejected a second request by the Libyan authorities to postpone his surrender to the Court. An appeal by Libya against this order was dismissed by the Appeals Chamber on 25 April 2012. On 1 May 2012, Libya challenged the admissibility of the cases before the Court and the obligation to surrender Saif Al-Islam Gaddafi was suspended.

In unanimously adopting Resolution 1970 (2011), the UNSC considered that the widespread and systematic attacks taking place in Libya against the civilian population may amount to crimes against humanity and decided to refer the situation in Libya to the ICC prosecutor to investigate crimes committed from 15 February 2011 onwards.

The prosecutor can only investigate situations in non-state parties, such as Libya, when the UNSC refers the situation to the prosecutor in accordance with Article 15(b) of the Rome Statute, or where a non-state party has submitted a declaration to the Registrar of the ICC accepting the jurisdiction of the court in its territory pursuant to Article 12(3) of the Statute. A referral by the UNSC to the ICC does not automatically trigger an investigation, however, as the court operates independently of the UN. Rather, it is the prosecutor's decision to determine whether an investigation is warranted. On 2 November 2011, the prosecutor addressed the UN Security Council on progress made so far in his investigation. Further

cases may be opened as part of the prosecutor's ongoing investigations into the hostilities in Libya.

The ICC is the world's first permanent international court to prosecute war crimes, crimes against humanity, and genocide. Central to the Court's mandate is the principle of complementarity, which holds that the Court will only intervene if national legal systems are unwilling or unable to investigate and prosecute perpetrators of genocide, crimes against humanity and war crimes. There are currently seven investigations before the Court: the Central African Republic; Cote d'Ivoire; the Democratic Republic of the Congo; Darfur, the Sudan; Uganda; Kenya; and Libya. The ICC has publicly issued 20 arrest warrants and nine summonses to appear. The Court issued a judgment in its first trial on 14 March 2012. Two other trials are ongoing. The ICC prosecutor has also made public that he is conducting seven preliminary examinations on four continents: Afghanistan, Colombia, Georgia, Guinea, Honduras, Republic of Korea and Nigeria.

The Coalition for the International Criminal Court is a global network of civil society organizations in 150 countries advocating for a fair, effective and independent International Criminal Court and improved access to justice for victims of genocide, war crimes and crimes against humanity. For more information, visit: www.coalitionfortheicc.org