



Coalition for the International Criminal Court

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FOR IMMEDIATE RELEASE

ICC Suspects Saif Al-Islam Gaddafi and Abdullah Al-Senussi Arrested

Suspects Wanted for Alleged Crimes Against Humanity in Libya Arrested by Libyan Authorities; Coalition Calls for Justice and Accountability for Victims

New York, 21 November 2011—On 20 November 2011, Abdullah Al-Senussi—International Criminal Court (ICC) suspect and former director of military intelligence in Libya—was captured in the south of Libya. His arrest follows the reported capture on 19 November 2011 of ICC suspect Saif Al-Islam Gaddafi, former Libyan government spokesman and son of former Libyan leader of Muammar Gaddafi. The ICC is the world's first and only permanent international court to prosecute war crimes, crimes against humanity and genocide.

“The Coalition welcomes the arrest of the ICC suspects as a positive step towards accountability in Libya,” said William R. Pace, convenor of the Coalition for the International Criminal Court—a global network of over 2,500 civil society organizations in 150 countries advocating for a fair, effective and independent ICC and improved access to justice for victims of genocide, war crimes and crimes against humanity. “We now urge Libya’s interim leaders to ensure that this accountability is fully carried through and justice is brought to victims of the alleged crimes committed in Libya,” Pace said.

Abdullah Al-Senussi and Saif Al-Islam Gaddafi are both wanted by the ICC for crimes against humanity allegedly committed in Libya since 15 February 2011. Muammar Gaddafi, for whom an ICC arrest warrant had also been issued, died on 20 October 2011. Under the terms of UN Security Council Resolution 1970 (2011), which unanimously referred the situation in Libya to the ICC, the competent Libyan authorities are obligated to cooperate fully with the Court, including in the arrest of ICC suspects.

Under the Rome Statute, the Court's founding treaty, Libyan authorities have primary jurisdiction over crimes committed in their country. However, in light of their obligations under UNSC Resolution 1970—and in keeping with their obligations contained in Article 89(1) of the Rome Statute, in the ICC warrants of arrest, as well as in the request for the arrest and surrender of the suspects to the Court—it is essential that the Libyan authorities facilitate the transfer of the suspects to the ICC. If the Libyan authorities have identified any problems that may impede or prevent the transfer of the suspects they must consult with the ICC without delay.

According to the Statute, if the Libyan authorities wish to assert their right to try the suspects in Libya, they must—at the earliest opportunity—challenge the admissibility of the cases on the grounds that they are independently and impartially investigating, or prosecuting, the same individuals for the same crimes at national level. This admissibility determination would be made by ICC judges. The transfer of the suspects to The Hague would not prevent the Libyan authorities from undertaking future domestic proceedings against the suspects for other alleged crimes.

On the other hand, should the Libyan authorities allege that the immediate execution of an ICC request for cooperation would interfere with ongoing investigations or prosecutions of a case different from that to which the request relates, they must consult with the ICC and may postpone the execution of the request for a period of time agreed upon with the ICC, but no longer than is necessary to complete the relevant investigation or prosecution in the requested state. If a decision to postpone is taken, the ICC prosecutor may still seek measures to preserve evidence.

“At this time, the most important principle to keep in mind is that the Libyan authorities must abide by the rules of the ICC statute so as to ultimately allow the two suspects to face independent and impartial proceedings for alleged crimes against humanity,” Pace stressed. “In this respect, the Coalition calls on the interim government in Libya to ensure the safety of the suspects and the delivery of due process.”

Meanwhile, the ICC retains jurisdiction over events in Libya since 15 February 2011, even after UNSC Resolution 2016 which ended the UN mandate allowing military intervention and terminated the no-fly zone. Libyan authorities consequently continue to be obligated to prevent and investigate any potential ICC crimes on their territory.

In a public letter sent to the president of Libya's transitional government on 27 October 2011, the Coalition also urged Libya's interim leaders to move quickly to ratify key international human rights and humanitarian law treaties, in particular the Rome Statute.

“It is crucial for the transitional government to demonstrate its commitment to justice and human rights by moving quickly to ratify key international human rights and humanitarian law treaties, in particular the Rome Statute,” Pace added. “It is equally important for the interim authorities to strengthen the national justice system's capacity to ensure accountability and the rule of law.”

Background: On 27 June 2011, ICC Pre-Trial Chamber I issued arrest warrants for Muammar Mohammed Abu Minyar Gaddafi, Saif Al-Islam Gaddafi and Abdullah Al-Senussi for alleged crimes against humanity committed in Libya since 15 February 2011.

On 3 March 2011, the ICC Prosecutor had decided to open a formal investigation into the violence in Libya. 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 18 arrest warrants and nine summonses to appear. Three trials are ongoing. The ICC prosecutor has also made public that it is examining eight situations on four continents: Afghanistan, Colombia, Georgia, Guinea, Honduras, Republic of Korea, Nigeria and Palestine.

The Coalition for the International Criminal Court is a global network of civil society organizations in over 150 countries working in partnership to strengthen international cooperation with the ICC; ensure that the Court is fair, effective and independent; make justice both visible and universal; and advance stronger national laws that deliver justice to victims of war crimes, crimes against humanity and genocide. For more information, visit: www.coalitionfortheicc.org

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