

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/11
Date: 27 June 2011

PRE-TRIAL CHAMBER I

Before: Judge Sanji Mmasenono Monageng, Presiding Judge
Judge Sylvia Steiner
Judge Cuno Tarfusser

SITUATION IN THE LIBYAN ARAB JAMAHIRIYA

PUBLIC

Warrant of Arrest 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

Mr Luis Moreno Ocampo, Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor

Counsel for the Defence

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

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

States Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Deputy Registrar

Mr Didier Preira

Defence Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

PRE-TRIAL CHAMBER I (“Chamber”) of the International Criminal Court (“Court”);

NOTING Resolution 1970 unanimously adopted by the United Nations Security Council on 26 February 2011 and referring the situation in the Libyan Arab Jamahiriya (“Libya”) since 15 February 2011 to the Prosecutor of the Court, in accordance with article 13(b) of the Rome Statute (“Statute”);

NOTING the “Prosecutor’s Application Pursuant to Article 58 as to Muammar Mohammed Abu Minyar GADDAFI, Saif Al-Islam GADDAFI and Abdullah AL-SENUSSI” (“Prosecutor’s Application”)¹ filed by the Prosecutor on 16 May 2011, and by which he, *inter alia*, requested the issuance of a warrant of arrest for Saif Al-Islam Gaddafi, for his alleged criminal responsibility for the commission of murder and persecution of civilians as crimes against humanity from 15 February 2011 onwards throughout Libya in, *inter alia*, Tripoli, Benghazi, and Misrata, through the Libyan State apparatus and Security Forces, in violation of article 7(1)(a) and (h) of the Statute and as principal to these crimes in accordance with article 25(3)(a) of the Statute;

HAVING examined the information and evidence (“Materials”) provided by the Prosecutor in his Application in light of the standard set out in article 58 of the Statute to determine whether there are reasonable grounds to believe that Saif Al-Islam Gaddafi has committed the crimes alleged by the Prosecutor, and that his arrest appears necessary;

NOTING articles 7(1)(a) and (h), 19, 25(3)(a) and 58 of the Statute;

CONSIDERING that, on the basis of the Materials provided by the Prosecutor, the Chamber believes that the case against Saif Al-Islam Gaddafi falls within the jurisdiction of the Court and that there is no ostensible cause or self-evident factor

¹ ICC-01/11-4-Conf-Exp and its annexes.

which impels it to exercise its discretion under article 19(1) of the Statute to determine at this stage the admissibility of the case against Saif Al-Islam Gaddafi, without prejudice to any challenge to the admissibility of the case in accordance with article 19(2) of the Statute;

CONSIDERING that the Chamber finds that there are reasonable grounds to believe that, following the events in Tunisia and Egypt which led to the departure of their respective Presidents in the early months of 2011, a State policy was designed at the highest level of the Libyan State machinery and aimed at deterring and quelling, by any means, including by the use of lethal force, the demonstrations of civilians against the regime of Muammar Mohammed Abu Minyar Gaddafi (“Gaddafi’s regime”) which started in February 2011;

CONSIDERING that there are reasonable grounds to believe that in furtherance of the abovementioned State policy, from 15 February 2011 until at least 28 February 2011 the Libyan Security Forces,² following a consistent *modus operandi*, carried out throughout Libya an attack against the civilian population taking part in demonstrations against Gaddafi’s regime or those perceived to be dissidents;

CONSIDERING that, although the exact number of casualties resulting from the attack cannot be known due to a cover-up campaign implemented in order to conceal the commission of crimes by the Security Forces, there are reasonable grounds to believe that, as of 15 February 2011 and within a period of less than two weeks in February 2011, the Security Forces killed and injured as well as arrested and imprisoned hundreds of civilians;

CONSIDERING therefore that there are reasonable grounds to believe that a systematic and widespread attack, in furtherance of a State policy, targeting the

² The expression “Security Forces” is hereinafter used to define the Libyan security and military system which is notably comprised of the Libyan Armed Forces and police; the military intelligence; the Internal and External Security Services; the Revolutionary Committees and its Bureau; the Revolutionary Guard; the People’s Guard; the Revolutionary Combating militias; brigades and militia units.

civilian population which was demonstrating against Gaddafi's regime or those perceived to be dissidents to the regime, occurred within the meaning of article 7(1) of the Statute;

CONSIDERING in particular that there are reasonable grounds to believe that throughout Libya and in particular in Tripoli, Misrata and Benghazi as well as in cities near Benghazi such as Al-Bayda, Derna, Tobruk and Ajdabiya, murders constituting crimes against humanity were committed from 15 February 2011 until at least 25 February 2011 by Security Forces as part of the attack against the civilian demonstrators or alleged dissidents to Gaddafi's regime;

CONSIDERING also that there are reasonable grounds to believe that, from 15 February 2011 until at least 28 February 2011, in various localities of the Libyan territory and in particular in Benghazi, Tripoli, Misrata and other neighboring towns, inhuman acts that severely deprived the civilian population of its fundamental rights were inflicted on it by the Security Forces because of the civilians' political opposition (whether actual or perceived) to the Gaddafi's regime;

CONSIDERING that, in light of the Materials, there are reasonable grounds to believe that Saif Al-Islam Gaddafi, although not having an official position, is Muammar Gaddafi's unspoken successor and the most influential person within his inner circle and, as such, at all times relevant to the Prosecutor's Application, he exercised control over crucial parts of the State apparatus, including finances and logistics and had the powers of a *de facto* Prime Minister;

CONSIDERING that the evidence submitted by the Prosecutor provides reasonable grounds to believe that the scale of the concerted actions by Saif Al-Islam Gaddafi and his father Muammar Gaddafi leads to the inference that Saif Al-Islam Gaddafi, as part of Muammar Gaddafi's inner circle and in coordination with him, conceived and orchestrated a plan to deter and quell, by all means, the civilian demonstrations against Gaddafi's regime;

CONSIDERING that in light of the Materials, there are reasonable grounds to believe that Saif Al-Islam Gaddafi contributed to the implementation of the plan by assuming essential tasks that led to the commission of the foregoing crimes and that, his contributions were essential for the realisation of the plan since he had the power to frustrate the commission of the crimes by not performing his tasks;

CONSIDERING further that there are reasonable grounds to believe that Saif Al-Islam Gaddafi (i) intended to bring about the objective elements of the foregoing crimes; (ii) knew that his conduct was part of a widespread and systematic attack against the civilian population pursuant to the State policy set up by Muammar Gaddafi in coordination with his inner circle, of which he himself was part; (iii) was well aware of his senior leadership role within the structure of the Libyan State apparatus and of his power to exercise full control over his subordinates and (iv) was aware and accepted that implementing the plan would result in the realisation of the objective elements of the crimes;

CONSIDERING accordingly that there are reasonable grounds to believe that Saif Al-Islam Gaddafi is criminally responsible as an indirect co-perpetrator, under article 25(3)(a) of the Statute, for the following crimes committed by Security Forces under his control in various localities of the Libyan territory, in particular in Benghazi, Misrata, Tripoli and other neighboring cities, from 15 February 2011 until at least 28 February 2011:

- i. murder as a crime against humanity, within the meaning of article 7(1)(a) of the Statute; and
- ii. persecution as a crime against humanity, within the meaning of article 7(1)(h) of the Statute;

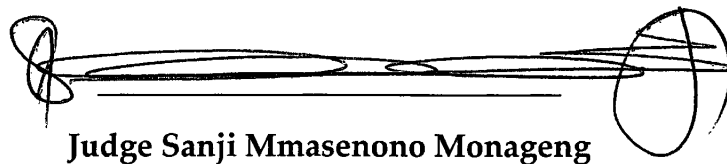
CONSIDERING that, under article 58(1) of the Statute, the arrest of Saif Al-Islam Gaddafi appears necessary at this stage to (i) ensure his appearance before the Court; (ii) ensure that he does not continue to use his power to obstruct or endanger the

investigation, in particular by orchestrating the cover-up of the crimes committed by the Security Forces; and to (iii) prevent him from continuing to use his power and control over the Libyan State apparatus to continue the commission of crimes within the jurisdiction of the Court;

FOR THESE REASONS, the Chamber

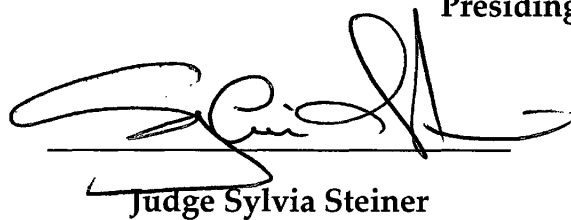
HEREBY ISSUES a warrant of arrest for Saif Al-Islam Gaddafi (also spelt as "Qaddafi", "Qadhafi" or "Kadafi"), whose photograph is attached, born on 25 June 1972 in Tripoli, Libya, honorary chairman of the Gaddafi International Charity and Development Foundation and acting as the Libyan *de facto* Prime Minister.

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

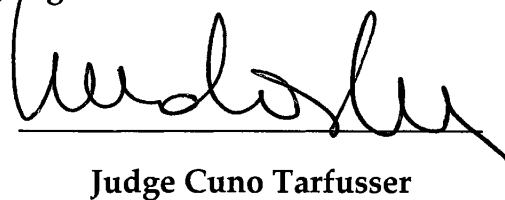


Judge Sanji Mmasenono Monageng

Presiding Judge



Judge Sylvia Steiner



Judge Cuno Tarfusser

Dated this Monday 27 June 2011

At The Hague, The Netherlands