

**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 Abdullah Al-Senussi

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 Abdullah Al-Senussi, 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 Abdullah Al-Senussi 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 Abdullah Al-Senussi 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 Abdullah Al-Senussi, 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, notably in Benghazi, murders constituting crimes against humanity were committed from 15 February 2011 until at least 20 February 2011 by Security Forces under the command of Abdullah Al-Senussi, 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 20 February 2011, in particular in Benghazi, inhuman acts that severely deprived the civilian population of its fundamental rights were inflicted on it by the Security Forces under the command of Abdullah Al-Senussi, because of this civilian population's political opposition (whether actual or perceived) to Gaddafi's regime;

CONSIDERING that in light of the Materials, there are reasonable grounds to believe that from 15 February 2011 until at least 20 February 2011, Abdullah Al-Senussi exercised his role as the national head of the Military Intelligence, one of the most powerful and efficient organs of repression of Gaddafi's regime and the state security organ in charge of monitoring the military camps and members of the Libyan armed forces;

CONSIDERING that there are reasonable grounds to believe that, once instructed by Muammar Gaddafi to implement the plan to deter and quell civilian demonstrations against his regime in Benghazi, Abdullah Al-Senussi used his powers over the military forces, commanded the forces in Benghazi and directly instructed the troops to attack civilians demonstrating in the city;

CONSIDERING further that there are reasonable grounds to believe that Abdullah Al-Senussi (i) intended to bring about the objective elements of the crimes

committed by the armed forces under his control from 15 February 2011 until at least 20 February 2011 in the city of Benghazi, (ii) knew that his conduct was part of a widespread and systematic attack against the civilian population pursuant to a State policy of targeting civilians perceived to be political dissidents; and (iii) was aware of his senior leadership role within the structure of the military and of his power to exercise full control over his subordinates;

CONSIDERING accordingly that there are reasonable grounds to believe that Abdullah Al-Senussi is criminally responsible as principal to the following crimes committed in Benghazi from 15 February 2011 until at least 20 February 2011 by the members of the armed forces under his control, under article 25(3)(a) of the Statute, as an indirect perpetrator:

- 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, in the absence of any information to the contrary, there are reasons to believe that Abdullah Al-Senussi is still the head of the Libyan Military Intelligence and, accordingly, still in a position to instruct troops to both commit crimes and destroy the evidence pursuant to the plan devised by Muammar Gaddafi in coordination with his inner circle, including Saif Al-Islam Gaddafi, the Chamber is satisfied that the arrest of Abdullah Al-Senussi is necessary to (i) ensure his appearance before the Court; (ii) ensure that he does not continue to obstruct and endanger the Court's investigations; and (iii) prevent him from using his powers to continue the commission of crimes within the jurisdiction of the Court;

FOR THESE REASONS, the Chamber


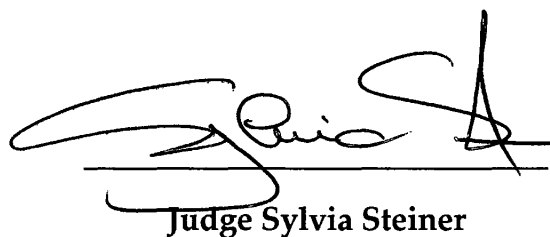
HEREBY ISSUES a warrant of arrest for Abdullah Al-Senussi, whose photograph is attached, born in 1949 in Sudan, Colonel in the Libyan Armed Forces and currently head of the Military Intelligence, previously known as the Jamahiriya Security Organisation.

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