



Original: **English**

No.: **ICC-01/11-01/17**
Date: **21 August 2017**

PRE-TRIAL CHAMBER I

Before: Judge Joyce Aluoch, Presiding Judge
Judge Cuno Tarfusser
Judge Péter Kovács

SITUATION IN LIBYA

**IN THE CASE OF
*THE PROSECUTOR v. MAHMOUD MUSTAFA BUSAYF AL-WERFALLI***

**Public
With one Public Annex**

**Request to Libya for cooperation in the arrest and surrender of MAHMOUD
MUSTAFA BUSAYF AL-WERFALLI**

Source: The Registry

Document to be notified in accordance with regulation 31 of the *Regulations of the****Court to:*****The Office of the Prosecutor**

Ms Fatou Bensouda, Prosecutor

Mr James Stewart, Deputy Prosecutor

Counsel for the Defence**Legal Representatives of the Victims****Legal Representatives of the Applicants****Unrepresented Victims****Unrepresented Applicants
(Participation/Reparation)****The Office of Public Counsel for
Victims****The Office of Public Counsel for the
Defence****States' Representatives**

Libya

Amicus Curiae**REGISTRY****Registrar**

Mr Herman von Hebel

Counsel Support Section**Victims and Witnesses Unit****Detention Section****Victims Participation and Reparations
Section****Other**

I. Introduction

1. The present request to Libya for cooperation in the arrest and surrender of Mr Mahmoud Mustafa Busayf Al-Werfalli (“Mr Al-Werfalli”) is based on articles 89(1) and 91 of the Rome Statute (“Statute”), in execution of the warrant of arrest for Mr Al-Werfalli issued by Pre-Trial Chamber I (“Chamber”) on 15 August 2017 (“Warrant of Arrest”).¹

II. Procedural history

2. On 26 February 2011, the United Nations Security Council, acting under Chapter VII of the Charter of the United Nations, unanimously adopted Resolution 1970 referring the situation in the Libyan Arab Jamahiriya since 15 February 2011 to the Prosecutor of the International Criminal Court (“Court”), and urging all States and concerned regional and other international organisations to cooperate fully with the Court and the Prosecutor.²
3. On 1 August 2017, the Office of the Prosecutor (“Prosecution”) filed an urgent application pursuant to article 58 of the Statute requesting the Chamber to issue a warrant of arrest for Mr Al-Werfalli.³
4. On 15 August 2017, the Chamber issued the Warrant of Arrest for Mr Al-Werfalli’s :

“alleged criminal responsibility pursuant to article 25(3)(a) and (b) of the Statute, for the war crime of murder under article 8(2)(c)(i) of the Statute, in seven incidents against 33 persons as described in Section II, which took place from on or before 3 June 2016 until on or about 17 July 2017 in Benghazi or surrounding areas, in Libya.”⁴

¹ Pre-Trial Chamber I, “Warrant of Arrest”, 15 August 2017, ICC-01/11-01/17-2.

² S/RES/1970 (2011), para. 4.

³ Prosecution, “Prosecution’s urgent application under article 58 for a warrant of arrest against Mahmoud Mustafa Busayf AL-WERFALLI, 1 August 2017, ICC-01/11-01/17-1-US-Exp.

⁴ Pre-Trial Chamber I, “Warrant of Arrest”, 15 August 2017, ICC-01/11-01/17-2, p. 16.

III. Applicable Law

5. The following provisions are of particular relevance to the present request for cooperation in the arrest and surrender of Mr Al-Werfalli: articles 59, 86, 87, 89(1), 91(1), (2) and (4) and 97 of the Statute, rules 13, 117, 176(2), 184 and 187 of the Rules of Procedure and Evidence (“Rules”), regulation 31 of the RoC and regulation 35 of the Regulations of the Registry. The present request is in accordance with the Warrant of Arrest.⁵

THE REGISTRAR REQUESTS THE COOPERATION OF LIBYA TO:

- arrest and surrender the following person to the Court:

FULL NAME: MAHMOUD MUSTAFA BUSAYF AL-WERFALLI
 The name also spelled: AL-WARFALLI, AL-WARFILLI, AL-WARFALY, AL-WARFALLY and AL-WERFALI
 Year of birth: 1978
 Nationality: Libyan
 Occupation: Major in the Al-Saiqa Brigade
 Probable location: Benghazi, Libya
 Description: photograph annexed to the present request


- comply with the procedures provided for in articles 59, 89(2) and 89(4) of the Statute and rule 117 of the Rules;
- notify the Court of any application made under articles 59(3) and 89(2) of the Statute;
- inform the Registry immediately, pursuant to rule 184(1) of the Rules, when Mr Al-Werfalli is available for surrender;

⁵ Pre-Trial Chamber I, “Warrant of Arrest”, 15 August 2017, ICC-01/11-01/17-2.

- consult with the Court regarding any information that may be required under the said State's national law in order to execute the requests, in accordance with article 91(4) of the Statute; and
- consult with the Court without delay should it identify problems which may impede or prevent the execution of the request, in accordance with article 97.

THE REGISTRAR TRANSMITS the following documents:

- Copies of the Warrant of Arrest – in its original version and in the official language of Libya; and
- A copy of the Warrant of Arrest and of the relevant provisions of the Statute in Arabic, a language that Mr Al-Werfalli fully understands and speaks, for transmission to Mr Al-Werfalli.



Marc Dubuisson, Director of the Division of Judicial Services

On behalf of

Herman von Hebel, Registrar

Dated this 21 August 2017

At The Hague, the Netherlands