

**ANNEX A**  
**PUBLIC**

*Draft translation:*

[http://www.youtube.com/watch?feature=player\\_embedded&v=Yo\\_4TJ4E-s](http://www.youtube.com/watch?feature=player_embedded&v=Yo_4TJ4E-s)

**Libya's representative before the Court: what was issued yesterday is not related to the appeal – Good Morning Libya's Page**

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**Interviewer:** From Benghazi and through the satellites, we are joined by Ahmed Al-Gehani, Libya's ICC Coordinator. Greetings to you, Mr. Ahmed.

**Gehani:** Greetings to you and happy New Year [Happy Ramadan to you].

**Interviewer:** And to you too. It was reported through you /interrupted/

**Gehani:** Is the voice clear?

**Interviewer:** Yes the voice is clear Mr. Ahmed. It was reported through you that the ICC rejected the suspensive effect request as a result of not transferring the latter [Saif] to official judicial prisons in Libya. Legally speaking, is this reasoning of the ICC considered sufficient?

**Gehani:** The truth is, thank you for calling and allow me to elaborate on two major points. First, what finding that prison is judicial and legitimate or not is not my own classification or a classification by the Prosecutor-General, but it is a classification by the ICC. We cannot

argue with the ICC about whether this is a legitimate prison or not. [There are] some prisons that we consider legitimate but the ICC, according to its standards, considers them not legitimate. We were unable to persuade it [the ICC] otherwise. The second point, which is important /interrupted/

**Interviewer:** According to Libya's standards, is the prison where Saif is detained - If you can hear me - according to Libya's standards, is the prison where Saif is currently detained deemed legitimate?

**Gehani:** I consider it legitimate, yes. I consider it legitimate.

**Interviewer:** Yes, please continue Mr. Ahmed.

**Gehani:** And it is under the authority of the Prosecutor-General, but the ICC was not persuaded by this, considering that in 2011 – in November 2011 – some prisons in Tripoli were shown to [the ICC] and in that time the Libyan government informed the ICC that these prisons, or this particular prison – and maybe even the media had accessed this prison – the government promised that it will be the defendant's location, in Tripoli. Since that time, they [the ICC] noted this point and they found that not transferring him means that it is a breach of an obligation that Libya itself has taken upon itself. This is what happened.

The second point that I would like to clarify is: what was issued yesterday is a rejection of a subsidiary request and is not related to the original appeal that we filed. This appeal was admitted, and there is a decision to surrender Saif. Therefore, what was issued yesterday is not related to the appeal. The appeal is still standing and we are still relying on it. However, we must refer to the decision of 31 May which praised Libya's legal performance but requested Libya to take practical steps to prove that it is able and is in control of its entire territory. This is what the ICC thinks, not me, which is to transfer the defendant from his current location to the central prison in Tripoli which was shown to the Court in 2011. This is an important issue.

Therefore, in that case, if this transfer happens, and all parties assisted to achieve this transfer and he was joined to the other defendants, we will win this appeal and we close this case with the ICC.

I would also like to raise an important point through this channel, which is [the importance of] ending this entangled relationship with the ICC, because if this relationship is not ended in this manner, through the issuing of this decision, tens of Libyans will be wanted by the ICC. This is a very important issue. The orders of this Court must be complied with, which is the transfer only and not the surrender of the defendants to it [the ICC]. This is in order to avoid the expansion of the list of wanted people, which then will become a great problem.

**Interviewer:** Mr. Gehani, we understand from this: if Saif is tried or transferred to one of the official prisons, will the ICC accept Saif's trial on Libyan soil in that case?

**Gehani:** Of course, of course, because in the 31 May decision, it expressly stated this requirement, which is to take practical and realistic steps.

**Interviewer:** Mr. Gehani, so that we can understand further, from the legal point of view, you said that the appeal is still ongoing and that this issue is subsidiary not the final decision. There are some obstacles. What are the steps that you are going to take in the appeal so that that you can succeed in this conflict between the ICC and Libya. Especially that Merghani, in a press conference last month, said that there are Libyan experts and foreigners are working hard on the appeal until a positive outcome is reached.

**Gehani:** Yes, that's correct what he said, Mr. Merghani. He also said, and this was found by the ICC too, that there are prisons in Libya that are not legitimate. Even this statement was issued by the Minister of Justice. But what interests us in this issue is that the conflict between the ICC and us is limited to one major issue, which is the transfer of this defendant to the prison that was determined by the ICC and the appointment of a lawyer for him, and consequently this relationship will end. The proof is, whether it is the decision issued on 31 May or the one issued yesterday do not mention at all the second defendant, Abdullah Al-Senussi because they consider that he is in Tripoli and hence within the scope of legitimacy. And I stress once again /interrupted/ yes.

**Interviewer:** I apologise for this interruption but we need to understand – there is a problem – I would just like to know, Mr. Gehani, how the appeal will proceed while this issue is an obstacle in the middle between the ICC and Libya, and it is a major and important issue.

**Gehani:** Correct, correct. The appeal has a formal side and a legal side, and this was already submitted. However, the Court coupled the granting of the appeal – and the decision in favour of Libya – with taking practical and realistic steps, and this is not under my responsibility. It is the Libyan State that should solve this problem, to find a way out of this issue, /voices overlapping/ the issue of transfer I mean.

**Interviewer:** Are there any current practical actions in order to transfer Saif from Zintan to the judicial prisons in Libya.

**Gehani:** Yes, from my knowledge, there are serious efforts, and I am certain that our brothers in Zintan are fully considerate of Libya's interests and that they prioritise this over any other interests, so that we can overcome this deadlock and end this entangled relationship with the Court to avoid [a situation in which] other individuals are wanted by [the ICC]. This was mentioned in the media, and by the Minister of Justice: that whoever escapes from the national punishment will receive an international punishment. I hope that this problem comes to an end, so that we can terminate this case with the ICC. I am not a proponent of continuing this relationship with the ICC, because it will lead to other individuals being wanted, tens of potential [defendants].

**Interviewer:** Mr. Gehani, since the Libyan judiciary recognises the prison where Saif is currently detained, and you have personally expressed that you believe that the prison where he is currently located is an official prison. Is this a sort of pressure from the ICC in order to transfer Saif from his Zintan prison to Tripoli or is it [the ICC] maybe aware that Zintan will probably not surrender Saif to Tripoli, so that becomes easier for it [the ICC].

**Gehani:** We always stress that Zintan is part of Libya, and Libya's interests is higher than the interest of any other entity in this regard. And they are considerate of this. But the delay in transferring Saif to Tripoli was probably due to security reasons.

Right now, either we comply with the Security Council Resolution, which is not mentioned by many these days, Resolution 1970 based on Chapter VII, which provides that Libya shall comply with the ICC's request; Or we can completely disregard this and we say that's it, each one does whatever he pleases, and this would not serve the country's interests at all.

In that case, what is the difference between Zintan and Tripoli if the question is only a question of formality? So we [should] close this door, end this loophole and we transfer him with the rest of the defendants, who must all be tried as a group or else we would not, as I said in the past, be able to establish many facts. If the trial of these individuals is done separately, it will not lead to the result that is awaited by the Libyan people: the establishment of the truth, the truth about what was happening and what was planned against the Libyan people. This is in addition to establishing other facts, such as the facts about the mass graves and the missing persons. The truth behind this issue will not be established unless all former regime members are tried before one same court. /Voices overlapping/ this is the important issue, and this conforms to the ICC's findings: that the trial is conducted completely, in the same place.

**Interviewer:** Yes, the point has been made clear. We were with Mr. Ahmed Al-Gehani, Libya's ICC coordinator, from Benghazi; thank you.