

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: **English**

No.: **ICC-01/11-01/11**

Date: **17 December 2019**

Date of the public redacted version:  
**8 January 2020**

**PRE-TRIAL CHAMBER I**

**Before:** Judge Péter Kovács, Presiding Judge  
Judge Marc Perrin de Brichambaut  
Judge Reine Adélaïde Sophie Alapini-Gansou

**SITUATION IN LIBYA**

**IN THE CASE OF *THE PROSECUTOR* v. *SAIF AL-ISLAM GADDAFI***

**PUBLIC REDACTED VERSION**

**Decision on Withdrawal of Counsel**

**Decision to be notified, in accordance with Regulation 31 of the Regulations of the Court, to:**

**The Office of the Prosecutor**  
 Fatou Bensouda, Prosecutor  
 James Stewart, Deputy Prosecutor

**Counsel for Saif Al-Islam Gaddafi**  
 Dato' Shyamala Alagendra  
 Essa Faal  
 Aidan Ellis

**Legal Representatives of Victims**

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
 Participation/Reparation**

**The Office of Public Counsel for Victims**

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

**States Representative**

**Others**

**REGISTRY**

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**Registrar**  
 Peter Lewis

**Counsel Support Section**  
 Esteban Peralta Losilla

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
 Section**

**Other**

**Pre-Trial Chamber I** (the “Chamber”) of the International Criminal Court issues this decision on withdrawal of counsel.

1. On 12 May 2017, the Registry informed the Chamber that Karim Khan (“Mr Khan”) had been appointed as counsel for Saif Al-Islam Gaddafi (“Mr Gaddafi”) and Dato’ Shyamala Alagendra (“Ms Alagendra”) was appointed as associate counsel in this case.<sup>1</sup>

2. On 26 April and 6 July 2018, respectively, the Registry informed the Chamber that Essa Mbye Faal (“Mr Faal”) and Aidan Ellis had also been appointed as associate counsel for Mr Gaddafi in this case.<sup>2</sup>

3. On 16 July 2018, the Chamber granted the request of Mr Khan to withdraw from the representation of Mr Gaddafi.<sup>3</sup> On 30 July 2018, the Registry informed the Chamber that Ms Alagendra had been appointed counsel for Mr Gaddafi.<sup>4</sup>

4. On 6 December 2019, the Chamber received the “Request Pursuant to Regulation 78(1) of the Regulations of the Court”, in which Ms Alagendra seeks the Chamber’s leave to formally withdraw from her representation as lead counsel for Mr Gaddafi (the “Request”).<sup>5</sup> Ms Alagendra submits that following consultations with Mr Gaddafi, and by mutual agreement, it was agreed that associate counsel Mr Faal would act as effective lead counsel since 1 August 2018, pending his formal appointment as lead counsel.<sup>6</sup> Ms Alagendra further submits that the formal appointment of Mr Fall was delayed [REDACTED].<sup>7</sup> Finally, Ms Alagendra submits that this planned change in the composition of Mr Gaddafi’s legal team will ensure continuity in the latter’s legal representation before the Court and will not cause any delays in the Appeals Chamber’s determination on Mr Gaddafi’s appeal of the Pre-Trial Chamber’s

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<sup>1</sup> ICC-01/11-01/11-635 with one confidential annex and three public annexes.

<sup>2</sup> ICC-01/11-01/11-639 with one confidential and one public annex; ICC-01/11-01/11-643 with one confidential and one public annex.

<sup>3</sup> Decision on Withdrawal of Counsel, ICC-01/11-01/11-645. *See also* Lead Counsel’s Request Pursuant to Regulation 78(1) of the Regulations of the Court, 13 July 2018, ICC-01/11-01/11-644.

<sup>4</sup> Registration of the appointment of Ms Shyamala Alagendra as Counsel for Saif Al-Islam Gaddafi, ICC-01/11-01/11-646.

<sup>5</sup> ICC-01/11-01/11-687-Conf-Exp.

<sup>6</sup> Request, para. 2.

<sup>7</sup> Request, para. 3.

“Decision on the ‘Admissibility Challenge by Dr. Saif Al-Islam Gaddafi pursuant to Articles 17(1)(c), 19 and 20(3) of the Rome Statute’”.<sup>8</sup>

5. The Chamber notes article 67(1)(d) of the Rome Statute (the “Statute”), regulations 67 and 78 of the Regulations of the Court (the “Regulations”), regulation 123 of the Regulations of the Registry, and articles 8, 15(2), 17(2), 18(3) and 19 of the Code of Professional Conduct for counsel (the “Code of Conduct”).

6. The Chamber, noting counsel’s wish to withdraw and the fact that this decision was taken by mutual agreement with Mr Gaddafi, hereby grants the Request. However, the Chamber reminds counsel that she remains subject to articles 8, 15 and 17 to 19 of the Code of Conduct. Furthermore, having regard to article 67(1)(d) of the Statute, the withdrawal of Ms Alagenda shall only take effect once the appointment of the new lead counsel for Mr Gaddafi has been formally acknowledged by the Registrar pursuant to regulation 123 of the Regulations of the Registry.

7. Finally, the Chamber notes that the Request was filed “confidential *ex parte*, available to the Defence, Prosecution and Registry only”.<sup>9</sup> The Chamber, however, sees no reason to derogate from the principle of publicity in this case, and therefore directs the Defence to file a public redacted version of the Request by Thursday 19 December.

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<sup>8</sup> Request, para. 4.

<sup>9</sup> Request, para. 6.

**FOR THESE REASONS, THE CHAMBER HEREBY**

**GRANTS** the Request ; and

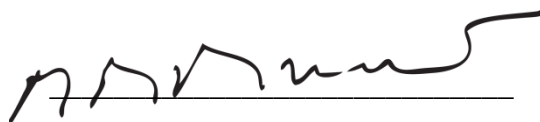
**ORDERS** the Defence to file a public redacted version of the Request by Thursday 19 December.

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



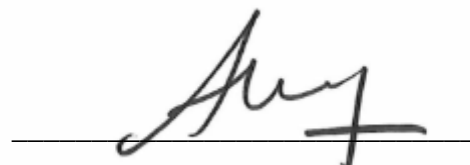
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**Judge Péter Kovács**  
**Presiding Judge**



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**Judge Marc Perrin de Brichambaut**



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**Judge Reine Alapini-Gansou**

Dated this Tuesday, 17 December 2019

At The Hague, The Netherlands