

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: English

No.: ICC-01/11-01/11
Date: 15 November 2011

PRE-TRIAL CHAMBER I

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

SITUATION IN THE LIBYAN ARAB JAMAHIRIYA

IN THE CASE OF
THE PROSECUTOR v. MUAMMAR MOHAMMED ABU MINYAR GADDAFI,
SAIF AL-ISLAM GADDAFI and ABDULLAH AL-SENUSSI

Confidential, *Ex Parte*, Prosecution and Registry only
with Confidential, *Ex Parte*, Prosecution and Registry only Annexes 1-4

**Prosecution's Observations regarding the "Transmission of Muammar
Mohammed Abu Minyar Gaddafi's death certificate" and Request to Withdraw
the Warrant of Arrest**

Source: Office of the Prosecutor

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

The Office of the 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

Amicus Curiae

REGISTRY

Registrar

Ms. Silvana Arbia

Counsel Support Section

Deputy Registrar

Mr. Didier Preira

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

1. The Office of the Prosecutor (OTP) requests the Pre-trial Chamber to withdraw the warrant of arrest issued for Muammar Abu Minyar Gaddafi ("Gaddafi") and to render it without effect because of the changed circumstances caused by Gaddafi's death.

Procedural Background

2. On 27 June 2011, this Chamber issued warrants of arrest, naming Muammar Abu Minyar Gaddafi, Saif Al-Islam Gaddafi, and Abdullah Al-Senussi, and specifying crimes against humanity.¹

3. On 4 July 2011, the Chamber issued a "Request to the Libyan Arab Jamahiriya for the arrest and surrender of Muammar Mohammed Abu Minyar Gaddafi, Saif Al-Islam Gaddafi, and Abdullah Al-Senussi."²

4. On 20 October 2011, various media sources widely reported the death of Gaddafi together with video footage that included his corpse.³ Senior officials in the Libyan National Transitional Council also made public statements confirming his death.

¹ See Decision on the Prosecutor's Application Pursuant to Article 58 as to Muammar Mohammed Abu Minyar Gaddafi, Saif Al-Islam Gaddafi, and Abdullah Al-Senussi", ICC-01/11-01/11-1, 27 June 2011; Warrant of Arrest for Muammar Mohammed Abu Minyar Gaddafi, ICC-01-01/11-2, 27 June 2011,

² ICC-01/11-01/11-5

³ Libya's Col Muammar Gaddafi killed, says NTC, BBC, 20 October 2011, LBY-OTP-0016-0057, LBY-OTP-0016-0093 and LBY-OTP-0016-0094; Gaddafi's death: World reaction, UN chief Ban Ki-moon says deposed leader's death "marks a historic transition for Libya", AlJazeera 20 October 2011, LBY-OTP-0016-0061 and LBY-OTP-0016-0095; Gaddafi killed in hometown, Libya eyes future, Reuters, 20 October 2011, LBY-OTP-0016-0063; Muammar Gaddafi Is Dead, Says Libya PM; Tripoli Celebrates, Time, 20 October 2011, LBY-OTP-0016-0064; NTC announces Muammar Gaddafi's death, news24, 20 October 2011, LBY-OTP-0016-0066; Gadhafi killed in crossfire after capture, Libyan PM says, CNN, 20 October 2011, LBY-OTP-0016-0067; Muammar Gaddafi Killed as Sirte falls, Former Libya leader killed in apparent attempt to flee last bastion, but circumstances of his death remain unclear, AlJazeera, 21 October 2011, LBY-OTP-0016-0071 and LBY-OTP-0016-0096; Col Gaddafi died from bullet wound to head 'in crossfire', The Telegraph, 21 October 2011, LBY-OTP-0016-0074; Moammar Gadhafi Dead: How Rebels Killed the Dictator, ABCnews, 21 October 2011, LBY-OTP-0016-0097, LBY-OTP-0016-0098 and LBY-OTP-0016-0099; 'Gaddafi cannot hurt his people any longer': Special Report, Kim Sengupta sees the body of the Libyan dictator, The Independent, 22 October 2011, LBY-OTP-0016-0077.

5. On 27 October 2011 the Registry made a request to the Libyan authorities for the transmittal of a death certificate of Gaddafi.⁴

6. On 4 November 2011, the Embassy of Libya to the Kingdom of the Netherlands transmitted a copy of the death certificate, which had been issued by the Civil Registration Office in Misrata.⁵ The Office of the Prosecutor likewise received a copy of the same death certificate from an official in Misrata.⁶

7. On 8 November 2011, the Registry finalized the translation of the death certificate.⁷

8. On 9 November 2011, the Registry informed the Chamber and the Prosecutor of its receipt of the death certificate and provided an official translation of it ("Registry Transmission").⁸

9. On 14 November 2011, the Chamber ordered the Prosecution to file its observations, if any, and particularly whether it objects to terminating proceedings with respect to Gaddafi.⁹

Request for the Warrant of Arrest for Muammar Mohammed Abu Minyar Gaddafi to be Withdrawn and to be Rendered Without Effect because of his Death¹⁰

10. Article 58(4) states that "warrant of arrest shall remain in effect unless otherwise ordered by the Court". Accordingly, the Prosecution requests the Pre-trial Chamber to withdraw the warrant of arrest and to render it without effect because of Gaddafi's death.

⁴ ICC-01/11-01/11-22-Conf-Exp, para.1

⁵ ICC-01/11-01/11-22-Conf-Exp, para.2

⁶ LBY-OTP-0015-0284

⁷ ICC-01/11-01/11-22-Conf-Exp, para.4

⁸ ICC-01/11-01/11-22-Conf-Exp

⁹ ICC-01/11-01/11-23-Conf-Exp

¹⁰ Pursuant to Regulation 23bis(2) of the Regulations of the Court, the Prosecution files this document confidential, Ex Parte, Prosecution and Registry only, since it refers to documents that have the same confidentiality level. Nonetheless, the Prosecution finds no reason to maintain this confidentiality should the Chamber decide to reclassify the Registry Transmission as public.

11. It is axiomatic that the death of a person named in a warrant or in an indictment terminates the criminal proceedings relating to that individual.¹¹ There is currently no doubt that Gaddafi, the person named in a warrant issued by this Court, is now dead. In light of the official notice of death received by the Court,¹² and the public information and statements made by the Libyan authorities concerning Gaddafi's death, there is no reason to require the warrant to remain outstanding.

Conclusion

15. For the foregoing reasons, the OTP requests that the Pre-Trial Chamber withdraw the warrant of arrest issued for Muammar Mohammed Abu Minyar Gaddafi because of the changed circumstance caused by his death.



Luis Moreno-Ocampo,
Prosecutor

Dated this 15th day of November 2011

At The Hague, the Netherlands

¹¹ See *Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo, Raska Lukwiya, Dominic Ongwen*, Decision to Terminate Proceedings Against Raska Lukwiya, ICC-02/04-01/05-248, 11 July 2007. See also, e.g., *Prosecutor v. Slobodan Milosevic*, Case no. IT-02-54, "Order Terminating Proceedings," 14 March 2006, (terminating proceedings based on coroner's report); *Prosecutor v. Milan Kovacevic*, Case no. IT-97-24, "Order Terminating Proceedings Against Minal Kovacevic," 24 August 1998, (terminating proceedings based on physician's report of death of the accused).

¹² ICC-01/11-01/11-22-Conf-Exp-Anx2