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## **Libya: Former intelligence chief must be surrendered immediately to ICC**

Abdullah al-Senussi, military intelligence chief for Colonel Mu'ammur al-Gaddafi, should have been surrendered to the International Criminal Court (ICC) to face charges of crimes against humanity, Amnesty International said today amid reports that Mauritanian authorities had extradited him to Libya.

In June 2011, the ICC issued an arrest warrant for al-Senussi, as well as Colonel Mu'ammur al-Gaddafi and his son Saif al-Islam al-Gaddafi, on two counts of crimes against humanity – murder and persecution – allegedly committed in the eastern Libyan port city of Benghazi in February 2011.

Al-Senussi had been in Mauritanian custody since March 2012, when he was arrested at the airport in Mauritania's capital Nouakchott.

In July, Mauritania's Minister of Justice asserted to Amnesty International that al-Senussi had entered the country illegally and was being held in good conditions. He added that the Mauritanian government was considering extradition requests made by Libya and France and the surrender request by the ICC. It has not been possible to determine whether he has had access to a lawyer, an independent doctor of his own choice and ICC staff.

“Instead of extraditing Abdullah al-Senussi back to Libya, where he faces an unfair trial and the death penalty for ordinary crimes under national law, Mauritania should have given precedence to the ICC's surrender request – he should face the charges of crimes against humanity against him in fair proceedings,” said Marek Marczyński, International Justice Research, Policy and Campaign Manager at Amnesty International.

“If the extradition reports are confirmed, the decision to send him to Libya – with its weak justice system and inadequate fair-trial guarantees – will inevitably delay justice for victims and could lead to violations of al-Senussi's rights to a fair trial.

“The ICC arrest warrant for al-Senussi remains in force and Libya has an obligation to surrender him without delay to The Hague.”

Following Saif al-Islam Gaddafi's capture in Libya in November 2011, the Libyan authorities refused to surrender him to the ICC, insisting that he be prosecuted nationally. This was a flagrant violation of Security Council Resolution 1970, which requires that Libyan authorities “cooperate fully with and provide any necessary assistance to the Court and the Prosecutor”.

The ICC is currently considering a legal challenge filed by the Libyan government in May 2012, in which they asserted their ability and willingness genuinely to prosecute Saif al-Islam Gaddafi nationally.

**Libya's flagging justice system**

Despite such claims, the Libyan justice system remains weak and fair trial rights can be flouted, as was demonstrated by the arrest and detention of Saif al-Islam Gaddafi's ICC defence lawyer in July.

“The arrest of Saif al-Islam's ICC lawyer further undermined his right of defence and casts doubts over Libya's ability and willingness genuinely to grant fair trials to former al-Gaddafi government figures,” said Marczyński.

Crimes against humanity are not considered crimes under Libyan law, which presents another serious obstacle to the country's ability to conduct effective investigations and prosecutions of such cases.

Amnesty International believes that al-Senussi and perceived loyalists of the former government face a real risk of torture or other ill-treatment in custody and Libyan law provides for the death penalty, which the organization opposes in all cases as a violation of the right to life and the ultimate cruel, inhuman and degrading punishment.

Thousands of alleged al-Gaddafi soldiers and loyalists continue to be detained in Libya without charge or trial. Many have been tortured and otherwise abused and have been forced to make “confessions” under torture or duress.

### **Past atrocities**

Abdullah al-Senussi has also been publicly accused of other crimes in the last four decades in Libya, including the extrajudicial execution of more than 1,200 detainees at Abu Salim prison in 1996.