

Libya argues it should be allowed to put Gadhafi-era spy chief on trial instead of ICC

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THE HAGUE, Netherlands — Libya has formally applied to the International Criminal Court to be allowed to put Moammar Gadhafi's former spy chief on trial in Tripoli instead of sending him to The Hague to face justice, according to documents published Wednesday.

In a lengthy written submission, lawyers representing Libya argued that Abdullah al-Senoussi's home country is willing and able to prosecute him and therefore has precedence over the world's first permanent war crimes tribunal.

The International Criminal Court indicted Al-Senoussi in June 2011 for crimes against humanity allegedly committed during the Gadhafi regime's brutal attempts to put down the rebellion that ousted the dictator after four decades in power.

Al-Senoussi is jailed in Libya. His lawyers argue he will not get a fair trial at home and should be sent to The Hague. His case runs parallel to that of one of Gadhafi's sons, Seif al-Islam Gadhafi, who also was indicted by the International Criminal Court in 2011 but is being held in Libya amid legal wrangling over the trial venue.

Under its founding treaty, the Rome Statute, the Hague-based war crimes tribunal is a court of last resort, meaning it can step in to prosecute suspects only when the home country refuses or is unable to do so.

Libya's 97-page motion argues that Al-Senoussi is being investigated at home for crimes including alleged offenses he is indicted for in The Hague and that Tripoli wants to try him "as part of its program of building a new and democratic Libya" governed by the rule of law.

"To deny the Libyan people this historic opportunity to eradicate the long-standing culture of impunity would be inconsistent with the object and purpose of the Rome Statute, including its deference to national judicial systems," the lawyers wrote as they asked judges to declare Al-Senoussi's case inadmissible at the International Criminal Court and to quash a court order for Libya to surrender him to The Hague.

However lawyers for both Seif al-Islam and Al-Senoussi have warned the International Criminal Court that the men are unlikely to receive a fair trial in Libya and should therefore be sent to The Hague.

Al-Senoussi's British lawyer Ben Emmerson argued earlier this year that a trial for his client in Libya would "inevitably constitute a flagrant denial of justice, and may result in the imposition and carrying into effect of the death penalty."

Libya countered in its written filing, saying the government in Tripoli, "has no intention of compromising its commitment to the rule of law by holding a rushed trial that does not meet international minimum standards of due process."

The United Nations Security Council gave the International Criminal Court a mandate to investigate in Libya in 2011 following the government's deadly crackdown on protesters. Prosecutors swiftly indicted Gadhafi, Seif al-Islam and Al-Senoussi on charges of murder and persecution for allegedly targeting civilians.

The charges against Gadhafi were dropped after he was captured and killed by rebels as his regime was toppled.

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