

Former ICC prosecutor's lucrative links with Libyan billionaire and ex-ally of Gaddafi

1 oct. 2017 Par [Stéphanie Maupas](#) et Hanneke Chin-A-Fo (NRC)
- Mediapart.fr



Field Marshal Khalifa Haftar, military strongman in Libya, a potential war crimes suspect. © Reuters

In 2015 the former chief prosecutor for the International Criminal Court defended the interests of a billionaire businessman with links to the former Gaddafi regime and who was a supporter of potential war criminals in Libya. Luis Moreno Ocampo, who had left the ICC in The Hague just three years before, was paid a total of 750,000 dollars for his work, Mediapart and European Investigative Collaborations (EIC) can reveal in their 'The Secrets of the Court' investigation. Moreno Ocampo denies any wrongdoing and says he was simply advising the businessman, Hassan Tatanaki, to be cautious in his dealings with a faction involved in the Libyan civil war. **Stéphanie Maupas** and **Hanneke Chin-A-Fo**, from NRC Handelsblad in Holland, report.

Case ICC 01/11 started with something of a Kafkaesque touch. On February 25th, 2011, diplomats on the Security Council at the United Nations in New York were negotiating the final details of a resolution seeking to refer allegations of war crimes committed in Libya to the International Criminal Court (ICC). As the Libyan regime under Colonel Muammar Gaddafi had not ratified the 1998 treaty governing the ICC, only the leading UN members could activate the referral.

On the eve of this momentous day in the court's history its chief prosecutor Luis Moreno Ocampo – who had been kept informed of the progress of the UN debates by his former chief of staff who was now a diplomat – remarked in an email: “Sunny day in Buenos Aires.” If the Argentine lawyer and ICC chief prosecutor had wanted to parody Franz Kafka's famous diary entry at the start of World

War I (“[Germany has declared war on Russia. Went swimming in the afternoon](#)”) he could not have done it better.



LES \$ÉCRETS\$ DE LA COUR

A week later Luis Moreno Ocampo was back in the grey of The Hague opening an investigation on the crimes being committed in Libya as Gaddafi brutally tried to quell the major rebellion that was breaking out. At the start of June 2011 the ICC's prosecutor issued three arrest warrants for crimes against humanity targeting Gaddafi himself, his son Saif al-Islam and Gaddafi's security chief, [Abdullah Senussi](#). By involving the ICC in the war the West hoped to spark defections in pro-Gaddafi circles. But after the fall of the regime in October 2011 the West insisted it wanted to leave it to the Libyans to sort out the post-war situation themselves. Without the West's support the ICC had little chance of arresting any of the suspects.

Moreno Ocampo was resigned to this outcome.

When he left The Hague in June 2012, after nine years in office, no Libyans had been brought to the court's prison. Gaddafi was dead and his son Saif al-Islam was then in the hands of a militia that was happy to make money out of their precious catch. As for Senussi, he had taken refuge in Mauritania but was handed back to Libya to face judgement.

However, in April 2015 Luis Moreno Ocampo renewed his links with the Libyan affair in lucrative circumstances. The former prosecutor, who worked for a New York law firm, taught at Harvard and was a consultant, had also become the legal advisor for [Justice First](#). This foundation, linked to the El Hurra Charity founded by Libyan billionaire [Hassan Tatanaki](#), describes itself as an “antiterrorist” organisation seeking to promote peace, reconciliation and justice.

There were two parts to the former prosecutor's mission. One was to lodge complaints at the office of the International Criminal Court, which he knew well. The other was to obtain United Nations sanctions against the enemies of those who paid him. But the twists and turns of the affair would lead to a third role for the Argentine: to protect any potential suspects among his new client's entourage from the ICC, the institution which he had served for nine years.



Billionaire Libyan businessman Hassan Tatanaki, whose foundation paid the former ICC prosecutor Luis Moreno Ocampo 750,000 dollars. © DR

According to the contract drawn up in Abu Dhabi at the end of April 2015 between El Hurra and Moreno Ocampo's company Transparent Markets SA – a document which is among those obtained by Mediapart and analysed by the EIC for '[The Secrets of the Court](#)' investigation – the fees promised to Moreno Ocampo amounted to a million dollars a year for three years. On top of this were his expenses and his assistant's fees; she was a former official at the ICC who was paid 250 dollars an hour.

Luis Moreno Ocampo today confirms that he received 750,000 dollars out of the planned three million and explains that Hassan Tatanaki ended his contract in July 2015. So the Argentine lawyer had just three months to put the billionaire Libyan's legal plans into place.

On May 3rd, 2015, Justice First held its first press conference at the Grand Nile Hotel in Cairo. Moreno Ocampo was presented there as being the judicial advisor for the heads of tribal groups from Libya. Some of the tribal chiefs struggled with the idea of being associated with oil magnate Hassan Tatanaki who had never broken his old ties with the Gaddafi clan.

The presence of the Argentine lawyer was intended to reassure and to allow Justice First to establish its credibility. But this came at the risk of the ICC losing some of its own credibility. For the involvement of the former prosecutor caused confusion, as his own assistant pointed out. “Everyone thinks that Ocampo has taken a position in the Libyan conflict and, by extension, the ICC,” she noted. In this way Moreno Ocampo's presence could have given the impression that the ICC was a biased court. Nonetheless its former chief prosecutor did not give up his lucrative deal with Hassan Tatanaki.

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Tatanaki is an extremely wealthy man. He learnt his trade by buying an oil company in 1991 before founding Challenger Group Ltd, which operates across the property, tourism and media sectors. In 2009 he invested 700 million dollars in an eco-tourism project backed by Gaddafi's son Saif al-Islam. Tatanaki also used the services of [Brown Lloyd James](#) (BLJ), an international public relations consultancy, to polish Gaddafi junior's image. At the time Saif al-Islam was considered one of the heirs apparent to the regime. The public relations agency helped him again when, at the start of the

revolution in 2011, Tatanaki decided to invest his cash in a humanitarian cause to help Libyan refugees. And to invest in Justice First.

In post revolutionary Libya one figure had emerged as a strongman: Field Marshal [Khalifa Haftar](#). Inspired by Arab nationalism, this military leader has grouped together tribal networks, former Gaddafi supporters and anti-Islamists. He is actively supported by Egypt, the United Arab Emirates and Hassan Tatanaki, who seems to be one of his main backers.

In May 2014 Field Marshal Haftar launched the military campaign Operation Dignity against the [Libya Dawn](#) coalition, made up of rebels and jihadists. The country was dragged into civil war and is now divided into two rival governments. In the east is the Tobruk Parliament of which Haftar is the military leader. To the west it is the [General National Congress](#) based in Tripoli which holds sway and attracts Islamists, with the alleged support of Qatar.

That was the political backdrop when Justice First started in 2015. Its plan was an ambitious one. And Moreno Ocampo had plenty of room for manoeuvre. “It's your ship and we follow your instructions,” the foundation's executive director told him.

To prepare the official complaints that were to be deposited at the ICC, the Moreno Ocampo started by drawing up a list of enemies. In Tatanaki's camp all Islamists were considered as enemies and all enemies as terrorists. The first investigations focused on the alleged links of the rival government in Tripoli with the jihadist militias in Benghazi, against whom Khalifa Haftar's army was fighting. The team also worked on an agreement with the minister of justice in the Tobruk camp. It envisaged investigating and pursuing other alleged criminals. But the process also allowed each party, Justice First and the Tobruk authorities, to remove along the way any documents judged embarrassing.

Leaked information

Luis Moreno Ocampo also took part in lobbying to get several “enemies” of Tatanaki's side put on the United Nations sanctions list. The former ICC prosecutor had a strong network of contacts and was due to meet with several diplomats in New York.

According to Mediapart's documents Florence Olara, a close ally of Moreno Ocampo and spokesperson for the current ICC prosecutor's office, wrote messages for Justice First for use on social media. This was despite the apparent clear conflict of interest in doing so.



Field Marshal Khalifa Haftar, military strongman in Libya, a potential war crimes suspect. He denies any wrongdoing. © Reuters

However, on May 12th, 2015, the current ICC prosecutor Fatou Bensouda, without her predecessor's prior knowledge, provoked shockwaves inside Justice First. On that day she presented a report on Libya to the UN Security Council. In it she attacked the crimes committed by Libya Dawn but also those committed as part of Operation Dignity led by Field Marshal Haftar. Up to this point the ICC had only looked at crimes committed during the 2011 revolution. This time there was every indication that the prosecutor was about to open another investigation. Those who had committed crimes since the start of the civil war in 2014 were now in her sights.

Two days later Luis Moreno Ocampo introduced Justice First on CNN. At the same time his assistant lunched with Jennifer Schense, in charge of international cooperation in the ICC prosecutor's office. According to documents obtained by Mediapart and the EIC, the ICC official told the assistant that the prosecutor in Tripoli – who had signed an agreement on cooperation and exchange of information with the ICC – had his own secret list of suspects. And one on which, moreover, the name of Field Marshal Haftar featured.

Four days later Jennifer Schense again informed the former prosecutor of information possessed by the court's investigators, including a video. This leak of information could well be seen as embarrassing for a legal institution which is supposed to keep confidential the progress of ongoing investigations. “I'm going to ask them to keep an eye out” for anything new, Schense told Moreno Ocampo, “and I'll keep you informed”.

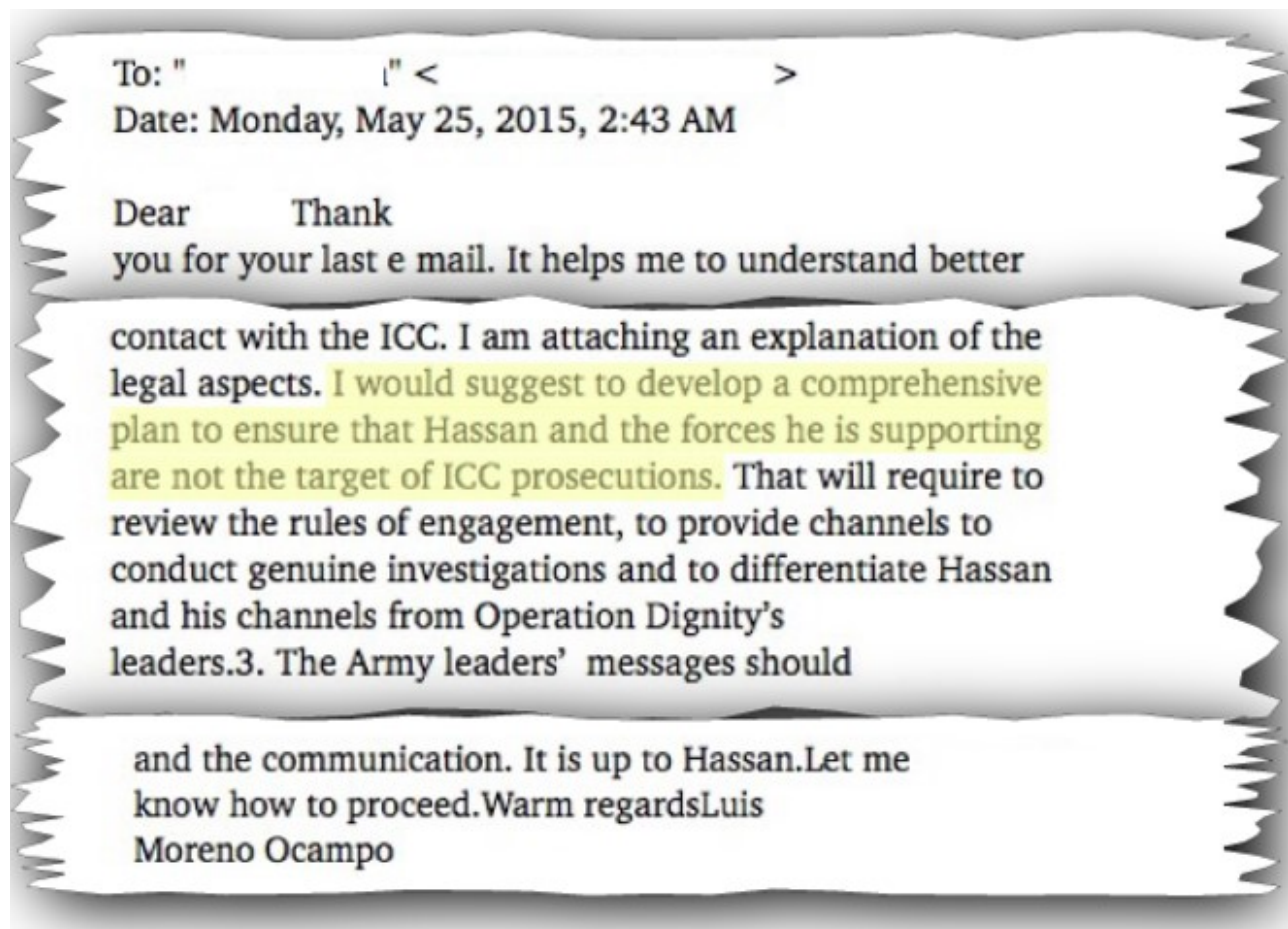
The ICC official also warned Moreno Ocampo's assistant about a television station, Awalan TV, run by Hassan Tatanaki. On this channel the air force commander of Haftar's forces had promised to massacre the 'traitors' who refused to join Operation Dignity and to rape their women. “This TV station is under Tatanaki's management,” wrote Jennifer Schense. “If there are people on his channel who say such things it's an incitement” to the crime, she added.

Hassan Tatanaki was said by his entourage to be “very shaken” when he heard this. Moreno Ocampo and his assistant then gave a lesson in the laws of war to the man who was the link between Tatanaki

and the former ICC prosecutor. The man was told that Haftar's officer could not make such comments and, above all, Tatanaki's channel could not broadcast them. "We now need a strategy to isolate Hassan [*Tatanaki*]," the former prosecutor suggested.

Moreno Ocampo's assistant supported the adoption of new rules of engagement for Haftar's soldiers, in agreement with international law. As for Tatanaki, he would have to strongly condemn the officer's comments, she said. "I know that could be problematic," she told Moreno Ocampo. But this would "cover their backs over what this guy said". The assistant added: "I'm ok about covering their backs but I refuse to take part in giving advice so they escape all criminal responsibility while they are committing crimes."

Two days later Moreno Ocampo sent an email suggesting the need for a "comprehensive" plan to "ensure that Hassan [*Tatanaki*] and the forces he is supporting are not the target of the ICC's prosecutions".



Luis Moreno Ocampo's email on his plan to ensure Libyan billionaire Hassan Tatanaki was not the subject of ICC prosecutions. © Document EIC

According to the documents obtained by Mediapart and the EIC, Luis Moreno Ocampo went as far as to organise a meeting between Hassan Tatanaki, the executive director of Justice First and the ICC's Jennifer Schense at the Hotel Des Inde in The Hague on June 13th, 2015. There was then a meeting in the late afternoon with the court's spokesperson Florence Olara. When contacted by the EIC, Jennifer Schense spoke of "patently false" information, while Florence Olara attacked what she called an "attempt to damage my reputation and that of the ICC". Both deny any wrongdoing.

When questioned by the EIC on September 25th, Luis Moreno Ocampo denied that he had had contact "with anyone from the ICC" in relation to the affair. He also insisted that he had never had any links with the organisation Justice First, while confirming that Hassan Tatanaki – who has not

been indicted for war crimes - had been one of his clients. “[Mr Tatanaki] stopped it. I don't know what happened to him. He called me and said 'we'll stop there, it's fine',” said Moreno Ocampo.

Confronted with potential accusations that he, a former ICC chief prosecutor, had been paid by a supporter of war crime suspects Moreno Ocampo insisted that, on the contrary, he alerted his client to the risks that arose from his links with Field Marshal Haftar. “I told him 'Yes, the people of Tripoli are probably committing war crimes but General Haftar is also probably committing crimes. Be careful with him.' ... I told M Tatanaki that the problem here is that all the parties are committing crimes. I told him that the ICC won't just pursue his enemies. The ICC can pursue everyone, including [Marshal Haftar].”

At the ICC a spokesperson for the current chief prosecutor's office said that “the prosecutor's office ...has never sought the advice, communicated or worked with the former ICC prosecutor Mr Moreno Ocampo in any way [since] June 2012”. The spokesperson said that “Mr Ocampo's activities after the end of his time in office ... have been carried out in a strictly personal capacity and neither he nor his actions can be associated with the office or the court”.

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- The French version of this article can be found [here](#).

English version by Michael Streeter

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Boite Noire



'The Secrets of the Court' is the result of six months of investigation carried out by six media organisations who are members of the consortium [European Investigative Collaborations](#) (EIC), of which Mediapart is a founding member.

More than 40,000 confidential documents – diplomatic cables, bank information, various correspondence – were obtained by Mediapart and analysed by the EIC. For the first time they allow a spotlight to be shone on certain practices of the International Criminal Court, which is based at The Hague in Holland.

Together with Mediapart, the EIC partners involved in the project are *Der Spiegel* (Germany), *NRC Handelsblad* (Holland), *The Sunday Times* (Britain), *El Mundo* (Spain), *L'Espresso* (Italy), *Le Soir* (Belgium), ANCIR (South Africa), *Nacional* (Serbia) and *The Black Sea*, an online publication

created by the Romanian Centre for Investigative Journalism which reports on Eastern Europe and Central Asia.

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