

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/11-01/11
Date: 22 November 2011

PRE-TRIAL CHAMBER I

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

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

**URGENT
Public**

**Decision to Terminate the Case Against Muammar Mohammed Abu Minyar
Gaddafi**

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

The Office of the Prosecutor

Mr Luis Moreno-Ocampo, Prosecutor
Ms Fatou Bensouda, Deputy Prosecutor

Counsel for the Defence

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 Representatives

Amicus Curiae

REGISTRY

Registrar

Ms Silvana Arbia

Deputy Registrar

Mr Didier Preira

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Others

Pre-Trial Chamber I of the International Criminal Court (“Chamber” and “Court” respectively) hereby renders the following decision:

NOTING Resolution 1970, adopted by the United Nations Security Council (“UNSC”) on 26 February 2011,¹ whereby the UNSC referred the situation in Libya since 15 February 2011 to the Prosecutor of the Court;²

NOTING the “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’”, issued by the Chamber on 27 June 2011,³ and the warrants of arrest corresponding to that decision;⁴

NOTING the “Transmission of Muammar Mohammed Abu Minyar Gaddafi’s death certificate”, filed confidentially on 10 November 2011, (“Registry Transmission”),⁵

NOTING the “Order Requesting Observations Regarding the Transmission of Muammar Mohammed Abu Minyar Gaddafi’s death certificate”, issued confidentially on 14 November 2011 (“Observations Order”),⁶ whereby the Chamber: (i) sought observations from the Prosecution regarding the consequences of the Registry Transmission⁷ and (ii) sought observations from the Registry regarding the confidential basis for its filing;⁸

NOTING the “Prosecution’s Observations regarding the Transmission of Muammar Mohammed Abu Minyar Gaddafi’s death certificate”, filed confidentially on 15 November 2011 (“Prosecution Observations”),⁹ wherein the Prosecution: (i) requests to withdraw the warrant of arrest issued for Muammar Mohammed Abu Minyar Gaddafi because of the

¹ S/RES/1970 (2011).

² *Ibid.*, para. 4.

³ ICC-01/11-01/11-1.

⁴ ICC-01/11-01/11-2, ICC-01/11-01/11-3 and ICC-01/11-01/11-4.

⁵ ICC-01/11-01/11-22-Conf-Exp with two confidential ex parte annexes.

⁶ ICC-01/11-01/11-23-Conf-Exp.

⁷ *Ibid.*, p. 4.

⁸ *Ibid.*

⁹ ICC-01/11-01/11-24-Conf-Exp.

changed circumstances caused by his death¹⁰ and (ii) indicates that it has no objection to the Prosecution Observations being classified as public;¹¹

NOTING the “Observations of the Registry on the classification of the transmission of Muammar Mohammed Abu Minyar Gaddafi’s death certificate”, filed confidentially on 18 November 2011 (“Registry Observations”),¹² whereby the Registry: (i) does not oppose the Registry Transmission being classified as a public document,¹³ (ii) requests that annex 1 of the Registry Transmission remain confidential¹⁴ and (iii) requests that annex 2 of the Registry Transmission should remain confidential until the Libyan authorities consent to making it public ;¹⁵

NOTING articles 25(1) and 58(4) of the Rome Statute and regulation 23 *bis* of the Regulations of the Court;

CONSIDERING that the purpose of criminal proceedings is to determine individual criminal responsibility and that jurisdiction cannot be exercised over a deceased person;¹⁶

CONSIDERING that, since the death of a person requires that proceedings against that person be terminated, all relevant documents are to be rendered without effect;¹⁷

CONSIDERING that, until the Libyan authorities respond to the Registry’s inquiry, the Registry Observations justify retaining the confidentiality level of the annexes of the Registry Transmission;

CONSIDERING that annex 3 of the Prosecution Observations appears to be part of annex 2 of the Registry Transmission;

¹⁰ *Ibid.*, para. 15.

¹¹ *Ibid.*, fn 10.

¹² ICC-01/11-01/11-26-Conf-Exp.

¹³ *Ibid.*, para. 4.

¹⁴ *Ibid.*, para. 5.

¹⁵ *Ibid.*, paras 6, 8.

¹⁶ *The Prosecutor v. Joseph Kony et al.*, “Decision to Terminate the Proceedings Against Raska Lukwiya”, 12 July 2007, ICC-02/04-01/05-248 (“Lukwiya Decision”), p. 4; ICTY, Appeals Chamber, *Prosecutor v. Rasim Delić*, “Decision on the Outcome of the Proceedings”, 29 June 2010, IT-04-83-A, paras 7-8.

¹⁷ Lukwiya Decision, p. 4.

FOR THESE REASONS

TERMINATES the proceedings against Muammar Mohammed Abu Minyar Gaddafi;

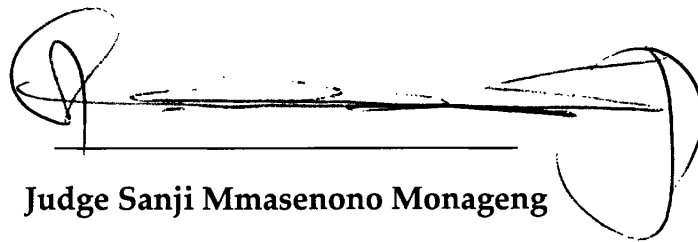
ORDERS the Registrar to notify the following of the termination of proceedings against Muammar Mohammed Abu Minyar Gaddafi: (i) the United Nations Security Council and (ii) all States which were sent cooperation requests for arrest;


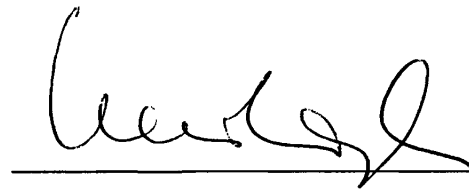
ORDERS that the Registry Transmission, Observations Order and Prosecution Observations shall be reclassified by the Registry as public documents;

ORDERS, at this juncture, for annexes 1 and 2 of the Registry Transmission and annex 3 of the Prosecution Observations to remain confidential; and

ORDERS that the Registry remove "Muammar Mohammed Abu Minyar Gaddafi" from the case name for all subsequent filings.

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


Judge Sanji Mmasenono Monageng
Presiding Judge



Judge Sylvia Steiner
Judge Cuno Tarfusser

Dated this Tuesday 22 November 2011

At The Hague, The Netherlands