

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/11-01/11

Date: 24 April 2012

PRE-TRIAL CHAMBER I

Before: Judge Silvia Fernández de Gurmendi, Presiding Judge
Judge Hans-Peter Kaul
Judge Christine Van den Wyngaert

SITUATION IN LIBYA

**IN THE CASE OF
THE PROSECUTOR *v.*
SAIF AL-ISLAM GADDAFI and ABDULLAH AL-SENUSSI**

Public Document

**Decision on the "Application on behalf of Mishana Hosseinioun for Leave to
Submit Observations to the Pre-Trial Chamber"**

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

The Office of the Prosecutor

Luis Moreno-Ocampo

Fatou Bensouda

Counsel for the Defence

Xavier-Jean Keita

Melinda Taylor

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

Silvana Arbia

Deputy Registrar

Didier Preira

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Others

Geoffrey Nice

Rodney Dixon

Pre-Trial Chamber I (the “Chamber”) of the International Criminal Court (the “Court”) issues the following decision on the “Application on behalf of Mishana Hosseinioun for Leave to Submit Observations to the Pre-Trial Chamber”, filed on 13 April 2012 (“Application”).¹

1. On 27 June 2011, the Chamber issued a warrant of arrest against, among others, Saif Al-Islam Gaddafi (“Mr Gaddafi”).²

2. On 2 February 2012, the Chamber issued a decision rejecting a request of Mishana Hosseinioun (“Ms Hosseinioun”) to submit *amicus curiae* observations to the Chamber regarding the detention and legal representation of Mr Gaddafi.³

3. On 13 April 2012, Ms Hosseinioun filed the Application, wherein she again requests the Chamber to grant her leave to submit observations under rule 103 of the Rules of Procedure and Evidence (“Rules”). In particular, Ms Hosseinioun requests authorisation to make observations on Mr Gaddafi’s right to appoint counsel of his own choosing and, accordingly, be permitted to visit or contact him to assist him in obtaining legal representation. Indeed, the applicant clarifies that “th[e] application is made solely to ensure that [Mr Gaddafi] has access to a very close friend (or family, if possible) to assist him at a time when he is most vulnerable”.⁴

4. The Chamber notes Rule 103 of the Rules, which provides that the Chamber, if it considers it desirable for the proper determination of the case, may invite or grant leave to a State, organization or person to submit observations on any issue that it deems appropriate.

¹ Application on behalf of Mishana Hosseinioun for Leave to Submit Observations to the Pre-Trial Chamber, 13 April 2012, ICC-01/11-01/11-108.

² Warrant of Arrest for Saif Al-Islam Gaddafi, 27 June 2011, ICC-01/11-01/11-3.

³ Decision on the Applications of Mishana Hosseinioun and Aisha Gaddafi to submit Amicus Curiae observations to the Chamber, 2 February 2012, ICC-01/11-01/11-49.

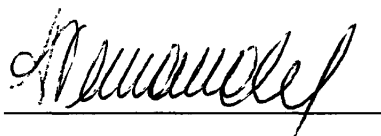
⁴ ICC-01/11-01/11-108, para. 25

5. The Chamber observes that Ms Hosseinioun effectively requests that the Chamber authorise and facilitate contact between her and Mr Gaddafi, in order to give him access to what she deems to be appropriate legal advice. She does not seek to provide the Chamber with observations which may be “desirable for the proper determination of the case”, as required by Rule 103 of the Rules. The reasoning advanced by Ms Hosseinioun to justify her request is thus misplaced and contrary to the intended purpose of the *amicus curiae* role in the proceedings before this Court. Accordingly, the Application must be rejected.

FOR THESE REASONS, THE CHAMBER HEREBY

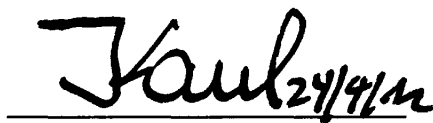
REJECTS the Application.

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

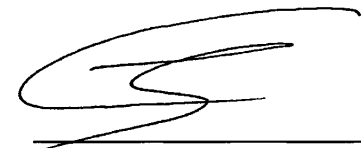


Judge Silvia Fernández de Gurmendi

Presiding Judge



Judge Hans-Peter Kaul



Judge Christine Van den Wyngaert

Dated this 24 April 2012

At The Hague, The Netherlands