

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

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

Date: 4 June 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 for Leave to Appeal Against '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 Keïta

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**

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**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** (“Chamber”) of the International Criminal Court issues the following decision on the “Application for Leave to Appeal Against ‘Decision on the Application on behalf of Mishana Hosseinioun for Leave to Submit Observations to the Pre-Trial Chamber’”, filed on 1 May 2012 (“Application for Leave to Appeal”).<sup>1</sup>

1. On 27 June 2011, the Chamber issued a warrant of arrest against, among others, Saif Al-Islam Gaddafi (Mr Gaddafi).<sup>2</sup>
2. On 2 February 2012, the Chamber issued a decision rejecting a request from Mishana Hosseinioun to submit *amicus curiae* observations to the Chamber regarding the detention and legal representation of Mr Gaddafi.<sup>3</sup>
3. On 14 February 2012, the Chamber issued a decision rejecting an application by Ms Hosseinioun for leave to appeal the Decision of 2 February 2012 on the grounds that she is not a party to the proceedings relating to the case and, accordingly, has no procedural standing to request leave to appeal a decision pursuant to article 82(1)(d) of the Rome Statute (“Statute”) and rule 155 of the Rules of Procedure and Evidence (“Rules”).<sup>4</sup>
4. On 24 April 2012, the Chamber issued a decision rejecting a second request by Ms Hosseinioun for leave to submit observations under rule 103 of the Rules, finding that Ms Hosseinioun 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 (“Decision”).<sup>5</sup>

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<sup>1</sup> ICC-01/11-01/11-131.

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

<sup>3</sup> “Decision on the Applications of Mishana Hosseinioun and Aisha Gaddafi to submit Amicus Curiae observations to the Chamber”, ICC-01/11-01/11-49.

<sup>4</sup> “Decision on the ‘Application of Mishana Hosseinioun for Leave to Appeal Against Decision on Application under Rule 103’”, ICC-01/11-01/11-60.

<sup>5</sup> “Decision on the ‘Application on behalf of Mishana Hosseinioun for Leave to Submit Observations to the Pre-Trial Chamber’”, 24 April 2012, ICC-01/11-01/11-124.

5. On 1 May 2012, Ms Hosseinioun filed the Application for Leave to Appeal the Decision.<sup>6</sup>

6. On 7 May 2012, the Prosecutor filed his response to the Application for Leave to Appeal, submitting that Ms Hosseinioun is not a party to the proceedings and, therefore, has no standing to request leave to appeal under article 82(1)(d) of the Statute.<sup>7</sup>

7. The Chamber notes article 82(1) of the Statute and rules 103 and 155 of the Rules.

8. As previously held,<sup>8</sup> applicants seeking to submit observations under rule 103 of the Rules are not “parties” within the meaning of article 82(1) of the Statute and have no standing to request leave to appeal a decision pursuant to article 82(1)(d) of the Statute and rule 155 of the Rules. The Applicant has developed no new arguments that could persuade the Chamber to reverse the established position.

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<sup>6</sup> ICC-01/11-01/11-131.

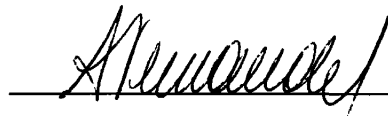
<sup>7</sup> ICC-01/11-01/11-137.

<sup>8</sup> Decision on the Application for Leave to Appeal the Decision on Application under Rule 103, 19 February 2009, ICC-02/05-192; ICC-01/11-01/11-60.

**FOR THESE REASONS, THE CHAMBER HEREBY**

**REJECTS** the Application for Leave to Appeal.

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

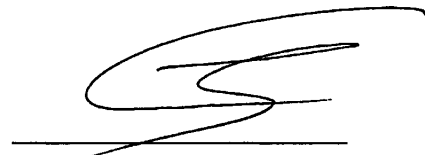


**Judge Silvia Fernández de Gurmendi**

**Presiding Judge**



**Judge Hans-Peter Kaul**



**Judge Christine Van den Wyngaert**

Dated this 4 June 2012

At The Hague, The Netherlands