

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-01/11
Date: 24 January 2012

PRE-TRIAL CHAMBER I

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

SITUATION IN LIBYA

Public

Decision on Victim's Participation in Proceedings Related to the Situation in Libya

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**

Ms Paolina Massidda

**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**

Ms Fiona McKay

Others

Pre-Trial Chamber I of the International Criminal Court (“Chamber” and “Court” respectively), hereby renders the following framework decision on victims participation in proceedings related to the situation in Libya, irrespective and outside the context of any case which may arise from that situation:

NOTING Resolution 1970 unanimously adopted by the United Nations Security Council on 26 February 2011 whereby the Security Council, *inter alia*, referred the situation in the Libyan Arab Jamahiriya (now “Libya”) since 15 February 2011 to the Prosecutor of the Court, in accordance with article 13(b) of the Rome Statute (“Statute”);

NOTING the “Decision on victims’ participation in proceedings relating to the situation in the Democratic Republic of the Congo”, issued by the Chamber on 11 April 2011 (“DRC Victims Decision”);¹

NOTING articles 21(2) and 68(3) of the Statute, rules 85 to 93 of the Rules of Procedure and Evidence and regulations 86 and 87 of the Regulations of the Court;

CONSIDERING the DRC Victims Decision’s directions for victims participating at the situation stage of proceedings (“Victim Participation Framework”) (citations omitted):

9. [...] [T]he Chamber acknowledges that victims may not be granted a general right to participate at the stage of the investigation in a situation. The victims are entitled, however, to participate in any judicial proceeding conducted at this stage, including proceedings affecting investigations. The Chamber shall therefore not grant participatory rights to victims, unless there is a judicial proceeding in which they would be able to participate.

10. The Chamber notes that the Statute and the Rules envisage various judicial proceedings that can be conducted at the situation stage: *inter alia*, proceedings regarding a review by the Pre-Trial Chamber of a decision by the Prosecutor not to proceed with an investigation or prosecution pursuant to article 53 of the Statute; proceedings concerning the preservation of evidence or the protection and privacy of victims and witnesses pursuant to article 57(3)(c) of the Statute; and proceedings concerning preservation of evidence in the context of a unique investigative opportunity pursuant to article 56(3) of the Statute. Victims can participate in such judicial proceedings if they demonstrate that their interests are affected. The Chamber also takes note of rule 93 of the Rules, according to which the Chamber may seek the views of victims or their legal representatives on any issue. Victims may participate in judicial proceedings by presenting their views in this way also at the stage of the investigation of a situation.

11. The way in which applications for participation are processed by the Chamber will largely depend on the time of their filing. Applications that have been filed at a time when no judicial proceedings are

¹ ICC-01/04-593.

conducted by the Chamber, will need to be kept by the Victims Participation and Reparation Section ("VPRS"). Only when judicial proceedings have been initiated, or upon an order from the Chamber, will those applications which relate to the subject-matter of these specific proceedings be transmitted by the VPRS to the Chamber for examination under rule 85 of the Rules and article 68(3) of the Statute.

12. If applications for participation are filed at a time when a judicial proceeding is conducted, the Chamber will assess them on receipt, to determine whether the applicants should be granted the right to participate as victims in that proceeding.

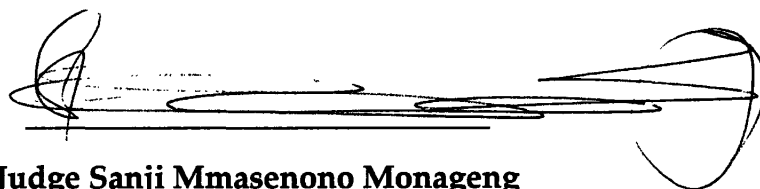
13. In the process of assessing applications for participation, the Chamber will be assisted by the VPRS, which shall conduct an initial examination of the applications, including the assessment of their completeness and the analysis of their compliance with the relevant criteria, and transmit to the Chamber those complete and reviewed applications which are related to the subject-matter of the judicial proceedings that have been or are about to be initiated by the Chamber. The VPRS shall report to the Chamber every three months on the applications it has received. The Chamber takes note of directions to the VPRS issued by Pre-Trial Chamber II with respect to the situation in the Republic of Kenya. The Chamber finds it appropriate that the VPRS also follows those directions, *mutatis mutandis* and consistently with the jurisprudence of the Chamber, in the present situation.

CONSIDERING that the Victim Participation Framework is of general application and that there is no reason to depart from it for any victim applications related to the Libya situation;

FOR THESE REASONS

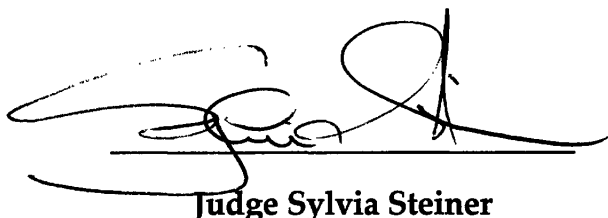
ORDERS the VPRS to abide by the Victim Participation Framework in the context of any victim applications related to the Libya situation.

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

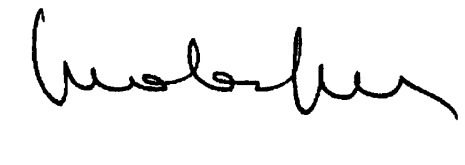


Judge Sanji Mmasenono Monageng

Presiding Judge



Judge Sylvia Steiner



Judge Cuno Tarfusser

Dated this Tuesday, 24 January 2012

At The Hague, The Netherlands