

**Cour  
Pénale  
Internationale**

**International  
Criminal  
Court**



Original: **English**

No.: ICC-01/13  
Date: **25 March 2015**

**PRE-TRIAL CHAMBER I**

**Before:** Judge Joyce Aluoch  
Judge Cuno Tarfusser  
Judge Péter Kovács

**SITUATION ON REGISTERED VESSELS OF THE UNION OF THE  
COMOROS, THE HELLENIC REPUBLIC OF GREECE AND THE KINGDOM OF  
CAMBODIA**

**Public**

**Prosecution's Response to Application for Leave to Reply Submitted on Behalf of  
KC Law (also known as Stoke and White LLP) and IHH Humanitarian Relief  
Foundation (ICC-01/13-11)**

**Source:** Office of the Prosecutor

**Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:**

**The Office of the Prosecutor**

Ms Fatou Bensouda, Prosecutor  
Mr James Stewart

**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**

Mr Geoffrey Nice  
Mr Rodney Dixon

**Amicus Curiae**

**REGISTRY**

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**Registrar**

Mr Herman von Hebel

**Defence Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations Other  
Section**

1. On 24 March 2015, KC Law (also known as Stoke and White LLP) and the IHH Humanitarian Relief Foundation, acting on behalf of persons seeking to participate in these proceedings as victims, requested leave to reply<sup>1</sup> in support of their application.<sup>2</sup> They propose two issues to be addressed.

- The first issue concerns the basis on which 55 persons may be considered as “victims”, if they have not been directly or indirectly harmed by the crimes for which the Prosecution found a reasonable basis in its report under article 53(1) of the Statute (“First Issue”).<sup>3</sup>
- The second issue concerns the desirability of the same counsel representing both the victims who are authorised to participate in these proceedings and the State Party to the Rome Statute who initiated these proceedings (“Second Issue”).<sup>4</sup>

2. With respect to the First Issue, bearing in mind the unique characteristics of this situation, the Prosecution will not object to the Pre-Trial Chamber, exceptionally, granting leave to reply.<sup>5</sup> However, the Prosecution stresses its view that the relevance of the First Issue was wholly foreseeable, and should have been addressed in the Application. In general, a reply should not be a procedural vehicle to address oversights in the original motion, but only issues arising from a response to that motion which could not reasonably have been anticipated.

3. In its Response, the Prosecution did not “invite” a reply regarding 8 of the 55 relevant persons, but merely indicated its view that the Pre-Trial Chamber should make their participation as victims conditional upon confirmation that they were

<sup>1</sup> See ICC-01/13-11-Anx1 (“Application for Leave to Reply”) (annexed to ICC-01/13-11), para.15.

<sup>2</sup> See ICC-01/13-7-Anx1 (“Application”) (annexed to ICC-01/13-7). See also ICC-01/13-8 (“Response”).

<sup>3</sup> Application for Leave to Reply, paras.3, 7-11.

<sup>4</sup> Application for Leave to Reply, paras.3, 12-14.

<sup>5</sup> See also Application for Leave to Reply, para.10.

indeed passengers aboard the *Mavi Marmara*.<sup>6</sup> By contrast, the First Issue plainly contemplates submissions extending beyond this factual confirmation.

4. The Prosecution does not oppose the Pre-Trial Chamber granting leave to reply on the Second Issue.



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Fatou Bensouda, Prosecutor

Dated this 25<sup>th</sup> day of March 2015

At The Hague, The Netherlands

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<sup>6</sup> *Contra* Application for Leave to Reply, paras.8, 11. *See* Response, para.12 (fourth bullet point).