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PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Presiding Judge
Judge Antoine Kesia-Mbe Mindua
Judge Tomoko Akane

SITUATION IN DARFUR, SUDAN

**IN THE CASE OF
THE PROSECUTOR *v.*
ALI MUHAMMAD ALI ABD-AL-RAHMAN (“ALI KUSHAYB”)**

Public

Public redacted version of “Second Corrected Version of ‘Document Containing the Charges’, 29 March 2021, ICC-02/05-01/20-325-Conf-Anx1”, 22 April 2021, ICC-02/05-01/20-325-Conf-Anx1-Corr2

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A. THE SUSPECT: ALI MUHAMMAD ALI ABD-AL-RAHMAN ALSO KNOWN AS ALI KUSHAYB

1. Ali Muhammad Ali **ABD-AL-RAHMAN**, also known as Ali KUSHAYB, was born on or about 15 October 1949 in Rahad al-Berdi, South Darfur, the Republic of the Sudan (“Sudan”). He is a national of Sudan. Between at least August 2003 and at least April 2004, **ABD-AL-RAHMAN** was a senior leader of the Militia/*Janjaweed* in the Wadi Salih and Mukjar Localities, West Darfur State (“West Darfur”), Sudan.

B. THE CHARGES

1) CONTEXTUAL ELEMENTS OF ARTICLE 7 AND ARTICLE 8

a) Contextual elements of article 7 (Crimes against humanity)

2. Between at least August 2003 and at least April 2004, Government of Sudan (“GoS”) forces and Militia/*Janjaweed* committed a widespread and systematic attack against the civilian population in the Wadi Salih and Mukjar Localities of West Darfur.

3. The GoS forces included the Sudanese Armed Forces, also known as the Sudanese People’s Armed Forces (“SAF”), the Popular Defence Forces (“PDF”), the Central Reserve Forces (“CRF”), the Popular Police Forces (“PPF”), and the Sudanese Police (“Police”) (together, the “GoS Forces”). The term Militia/*Janjaweed* is a general description for irregular fighters that originated mainly from Arab tribes and were allied with the GoS Forces in the non-international armed conflict in Darfur, Sudan. The Militia/*Janjaweed* were also known as *Bashmerga*, *Fursan* and *Mujahidin*.

4. The GoS Forces and Militia/*Janjaweed* engaged in a course of conduct that involved the multiple commission of acts referred to in this document containing the charges (“DCC”). This attack was carried out pursuant to, and in furtherance of, a State policy to commit an attack against the civilian population in the Wadi Salih and Mukjar Localities. The attack was directed predominantly against civilian members of the Fur tribe.

5. The attack involved the acts charged in this DCC, which took place in Kodoom, Bindisi and Deleig in the Wadi Salih Locality, and Mukjar in the Mukjar Locality. The attack further involved non-charged acts under article 7(1) which took place in other locations, including Arawala, Forgo, Taringa, Andi, Fere, Seder, Gausir, Kaskeidi and Um Jameina in the Wadi Salih Locality, and Tendy and Tiro in the Mukjar Locality.

6. The attack was widespread. The area encompassing the attack was approximately 1,400 square kilometres and was spread over two separate localities. The attack also resulted in a large number of victims, including thousands of civilians forcibly displaced, hundreds murdered and many raped.

7. The attack was systematic, in that it was planned, organised, and executed according to a pattern. This pattern involved GoS Forces and Militia/*Janjaweed* acting together to target civilians in towns and villages predominantly inhabited by members of the Fur tribe, including in Kodoom and Bindisi. The pattern also involved GoS Forces and Militia/*Janjaweed* acting together to search for, detain, torture and, in many cases, kill predominantly Fur males in Mukjar and Deleig.

8. As a senior leader of the Militia/*Janjaweed* in the Wadi Salih and Mukjar Localities, **ABD-AL-RAHMAN** knew that his conduct was part of this widespread and systematic attack against the civilian population pursuant to, and in furtherance of, the State policy. He cooperated with civilian officials of the GoS (“GoS Officials”) and GoS Forces to execute the State policy and participated in the attack at Kodoom, Bindisi, Mukjar and Deleig.

b) Contextual elements of article 8 (War crimes)

9. From at least April 2003 until at least April 2004, an armed conflict not of an international character was ongoing in Sudan, including Darfur. At all material times, the parties to the armed conflict in Darfur, Sudan were the GoS on one side and rebel armed groups on the other side. For the purpose of the conflict, the Militia/*Janjaweed* were allied with the GoS Forces.

10. The two main rebel armed groups opposing the GoS in Darfur, Sudan were the Sudan Liberation Movement/Army (“SLM/A”) and the Justice and Equality Movement (“JEM”). At all material times, the SLM/A and JEM were sufficiently organised.

11. The armed hostilities between the GoS together with the Militia/*Janjaweed* on one side and SLM/A and JEM on the other side in Darfur, Sudan were protracted, and exceeded internal disturbances and tensions such as riots, isolated and sporadic acts of violence or other acts of a similar nature.

12. The conduct that forms the basis of the charges took place in the context of and was associated with the armed conflict. At all material times, **ABD-AL-RAHMAN** was aware of the factual circumstances that established the existence of the armed conflict.

2) COMMON ELEMENTS OF MODES OF INDIVIDUAL CRIMINAL RESPONSIBILITY

13. This section addresses aspects of **ABD-AL-RAHMAN**'s position and personal conduct which are common to the different criminal episodes charged against him, and relevant to elements of his individual criminal responsibility as required by articles 25(3)(a), 25(3)(b), 25(3)(c) and 25(3)(d) of the Rome Statute. This should be read in conjunction with the subsections related to individual criminal responsibility in Section 3 (The charged crimes), regarding the crimes committed in Kodoom, Bindisi, Mukjar and Deleig.

a) **ABD-AL-RAHMAN**'s position of authority and influence

14. Between at least August 2003 and at least April 2004, **ABD-AL-RAHMAN**:

- a. was a senior Militia/*Janjaweed* leader;
- b. cooperated with senior GoS Officials and senior members of GoS Forces;
- c. cooperated with GoS Officials at the locality level;
- d. cooperated with and/or exerted influence over certain members of the GoS Forces at the locality level; and
- e. issued orders to members of GoS Forces including, in particular, those of lower rank.

15. The combination of the above factors placed **ABD-AL-RAHMAN** in a position of authority and influence. This, in turn, enabled **ABD-AL-RAHMAN** to contribute to the charged crimes in the manner described in this DCC.

i. **ABD-AL-RAHMAN** was a senior Militia/*Janjaweed* leader

16. Between at least August 2003 and at least April 2004, the Militia/*Janjaweed* conducted armed operations in the Wadi Salih and Mukjar Localities. During this period, **ABD-AL-RAHMAN** was a senior leader of the Militia/*Janjaweed* in these localities. **ABD-AL-RAHMAN** was the "colonel of colonels" or "*agid al-ogada*" within the Militia/*Janjaweed* in the region of the Wadi Salih and Mukjar Localities. He was an influential figure among other leaders of the Militia/*Janjaweed* in the Wadi Salih and Mukjar Localities, including Muhammad Adam BONJOUSE and Al-Dayf SAMIH. **ABD-AL-RAHMAN** was feared and respected by other members of the Militia/*Janjaweed*, in part due to his prior experience in the

SAF and his senior leadership role in the Militia/*Janjaweed*. His orders, including orders to commit crimes, were obeyed by other members of the Militia/*Janjaweed*.

17. **ABD-AL-RAHMAN** played a central role in the recruitment of members of the Militia/*Janjaweed* in Darfur, including in the Wadi Salih and Mukjar Localities. He also supervised the training of members of the Militia/*Janjaweed*, often cooperating with other Militia/*Janjaweed* leaders including Al-Dayf SAMIH.

18. **ABD-AL-RAHMAN** supplied weapons and other military equipment to leaders and other members of the Militia/*Janjaweed* on multiple occasions in locations including Mukjar and Garsila. He also provided funds and other supplies to members of the Militia/*Janjaweed*.

19. **ABD-AL-RAHMAN** led Militia/*Janjaweed* armed operations in the Wadi Salih and Mukjar Localities. These included armed operations in Sindu, Kodoom, Bindisi, Arawala, Mukjar and Deleig.

ii. ABD-AL-RAHMAN cooperated with senior GoS Officials and senior members of GoS Forces

20. Between at least August 2003 and at least April 2004, **ABD-AL-RAHMAN** cooperated with senior GoS Officials, including in particular, State Minister for the Ministry of the Interior, Ahmad Muhammad HARUN. **ABD-AL-RAHMAN** met with Ahmad Muhammad HARUN in Mukjar and Garsila on a number of occasions during this period. **ABD-AL-RAHMAN** also received public expressions of support from senior GoS Officials, including Ahmad Muhammad HARUN. He also communicated with senior GoS Officials, including during armed operations. **ABD-AL-RAHMAN** also received weapons and money from Ahmad Muhammad HARUN which he distributed to the Militia/*Janjaweed*.

21. **ABD-AL-RAHMAN** also cooperated with senior members of the GoS Forces. In particular, he met with a number of high-ranking officials from the SAF in Mukjar and Garsila.

iii. ABD-AL-RAHMAN cooperated with GoS Officials at the locality level

22. **ABD-AL-RAHMAN** also cooperated with GoS Officials in the Wadi Salih and Mukjar Localities, including in particular, Ja'afar ABD-AL-HAKAM, Commissioner of Garsila, and Abdullah Al-Tayyib Muhammad TORSHEIN, Commissioner of Mukjar. **ABD-AL-RAHMAN** cooperated with Ja'afar ABD-AL-HAKAM in relation to the mobilisation of, and the distribution of weapons to, Militia/*Janjaweed* in Garsila. **ABD-AL-RAHMAN** also

attended a number of meetings with GoS Officials in the Wadi Salih and Mukjar Localities, including with Ja'afar ABD-AL-HAKAM and Abdullah Al-Tayyib Muhammad TORSHEIN.

iv. ABD-AL-RAHMAN cooperated with and/or exerted influence over certain members of the GoS Forces at the locality level

23. **ABD-AL-RAHMAN** also cooperated with, and at times exerted influence over, members of GoS Forces in the Wadi Salih and Mukjar Localities. This included Police and CRF officers in Mukjar, including Abdullah HIMEIDAN and Mustafa Ahmad AL-TAYYIB. In the SAF, this included Military Intelligence personnel, including the head of the Military Intelligence Office in Garsila, Hamdi Sharaf-Al-Din SID AHMAD, and Military Intelligence officers Mussadiq Hassan MANSUR and ABD-AL-MUN'IM, also known as ABU LAHAB, as well as various other SAF personnel.

24. **ABD-AL-RAHMAN** met and/or communicated often with such members of the GoS Forces. He also obtained their cooperation regarding, among other things, the receipt of weapons and other supplies by **ABD-AL-RAHMAN** and his subordinates, the arrest and detention of persons, the questioning by **ABD-AL-RAHMAN** and his Militia/*Janjaweed* subordinates of detainees in the custody of GoS Forces, the transfer of detainees into the custody of **ABD-AL-RAHMAN** and his Militia/*Janjaweed* subordinates, and the killing of such detainees.

25. **ABD-AL-RAHMAN** also coordinated with, and at times exerted influence over, such members of the GoS Forces during the course of armed operations. This included armed operations in Kodoom, Bindisi, Arawala, Sindu, Mukjar and Deleig where **ABD-AL-RAHMAN** and Militia/*Janjaweed* accompanying him were supported by GoS Forces including, variously, the SAF and the PDF.

v. ABD-AL-RAHMAN issued orders to members of GoS Forces including, in particular, those of lower rank

26. **ABD-AL-RAHMAN**, at times, issued orders to certain personnel of the GoS Forces, including to personnel of the SAF and PDF, which were obeyed. In the SAF, this included soldiers Muqaddam IDRIS and Witness P-0905, as well as certain officers within the Military Intelligence Office in Garsila. In the PDF, this included PDF officer (later Garsila PDF coordinator) Abd-Al-Rahman Dawud HAMMUDA, also known as HASSABALLAH, and Mukjar PDF coordinator Al-Sadiq Ahmad Uthman ZAKARIYA. This included orders to stay in or move to certain locations, to use or desist in using heavy weapons, arrest and detain

persons, including in police and military facilities, transport detainees, and kill detainees, particularly in the Wadi Salih and Mukjar Localities.

b) ABD-AL-RAHMAN's individual criminal responsibility

27. The facts described at paragraphs 14 to 26 above regarding **ABD-AL-RAHMAN's** position of authority and influence are relevant to:

- a. Co-perpetration under article 25(3)(a): **ABD-AL-RAHMAN's** essential contribution to the Mukjar and Deleig common plans, as described at paragraphs 97 to 102, and 140 to 145.
- b. Ordering under article 25(3)(b): **ABD-AL-RAHMAN's** orders to his Militia/*Janjaweed* subordinates, as well as certain members of the GoS Forces, to commit crimes in connection with Mukjar and Deleig, as described at paragraphs 105 to 106, and 149 to 150.
- c. Inducing under article 25(3)(b): **ABD-AL-RAHMAN's** exertion of influence over Militia/*Janjaweed* and GoS Forces, prompting them by his words or conduct to commit crimes in connection with Kodoom, Bindisi, Mukjar and Deleig, as described at paragraphs 61 to 63, 107 to 108, and 151 to 152.
- d. Aiding, abetting or otherwise assisting under article 25(3)(c): **ABD-AL-RAHMAN's** aiding, abetting or provision of other assistance in the commission of crimes in connection with Kodoom, Bindisi, Mukjar and Deleig, as described at paragraphs 64 to 65, 109 to 110, and 153 to 154.
- e. Contributing to crimes by a group of persons under article 25(3)(d): **ABD-AL-RAHMAN's** contribution to the commission or attempted commission of crimes by groups of persons acting with a common purpose in connection with, respectively, Kodoom, Bindisi, Mukjar and Deleig, as described at paragraphs 66 to 69, 111-114, and 155 to 158.

28. It is the Prosecution's primary position that certain charged modes of liability may encompass the entirety of **ABD-AL-RAHMAN's** criminal responsibility for charged incidents (for example, inducing for Kodoom/Bindisi, and responsibility as a direct perpetrator and co-perpetrator for Mukjar and Deleig). However, the physical perpetrators of the charged incidents were, variously, members of the Militia/*Janjaweed* or the GoS Forces, and the charged crimes

were not always committed at the same time or location within the context of the charged incidents. Accordingly, it may be necessary for the Trial Chamber to convict either:

- a. cumulatively (for instance, where **ABD-AL-RAHMAN** contributed in multiple different ways to the commission of the same crime, such as by ordering certain direct perpetrators, and inducing other direct perpetrators, to commit the crime of murder), or
- b. alternatively,

on these modes and the other modes of liability, in order to capture **ABD-AL-RAHMAN**'s full responsibility for the charged crimes and bearing in mind the specificities of the events as they are proved at trial. For each count, this possibility is indicated throughout this document by the conjunction "and/or".

29. In order to allow the Trial Chamber to determine which combination of modes of liability best fits the evidence presented at trial, the Prosecution requests the Pre-Trial Chamber to confirm the charges with respect to all the modes of liability pled in this DCC.

3) **THE CHARGED CRIMES**

a) **Crimes committed in Kodoom, Bindisi and surrounding areas between about 15 and about 16 August 2003 (Counts 1-11)**

i. **The crimes**

30. This section should be read in conjunction with Section 1 (Contextual elements of article 7 and article 8).

31. During the charged period, Kodoom, Bindisi and surrounding areas were located in the Wadi Salih Locality, West Darfur. Kodoom was a village divided by a *wadi* (a river bed or valley) into several areas, including Kodoom Tinah and Kodoom Derliwa. Kodoom was approximately 15 kilometres northeast of Bindisi. Bindisi was a large town comprised of two parts divided by a *wadi*. Bindisi was located approximately 19 kilometres west of Mukjar. The population of Kodoom, Bindisi and surrounding areas was predominantly Fur.

32. Between about 15 and about 16 August 2003, the Militia/*Janjaweed* and GoS Forces, including **ABD-AL-RAHMAN**, attacked Kodoom, Bindisi and surrounding areas. They entered Kodoom and Bindisi, and killed at least 100 persons, raped at least 17 women and girls, looted houses, livestock and other property, destroyed houses, warehouses, shops and at least

one mosque, and caused the displacement of persons. The victims of these crimes were predominantly Fur.

33. The GoS Forces that participated in the operation in Kodoom, Bindisi and surrounding areas between about 15 and about 16 August 2003 included the PDF and the CRF.

Count 1: Intentionally directing attacks against the civilian population as such, as a war crime

34. Between about 15 and about 16 August 2003, **ABD-AL-RAHMAN**, together with Militia/*Janjaweed* and GoS Forces, carried out an attack against the civilian population of Kodoom, Bindisi and surrounding areas as such, or against individual civilians not taking direct part in the hostilities. **ABD-AL-RAHMAN** and the perpetrators of the attack intended the civilian population to be the object of the attack, or knew that this would occur in the ordinary course of events.

35. The Militia/*Janjaweed* and GoS Forces arrived in Land Cruisers mounted with *Dushka* heavy machine guns, while others were on horses, camels and on foot. The Militia/*Janjaweed* and GoS Forces were armed with firearms, such as Kalashnikovs and *Gims*, as well as edged weapons.

36. The Militia/*Janjaweed* and GoS Forces directed numerous acts of violence against the civilian population of Kodoom, Bindisi and surrounding areas. The attack caused actual death, injury and destruction, as described below under Counts 2-3 (murder), Count 5 (destruction of property), Count 6 (other inhumane acts), Count 7 (outrages upon personal dignity), Counts 8-9 (rape), Count 10 (forcible transfer) and Count 11 (persecution).

Count 2: Murder as a crime against humanity

37. During the attack, Militia/*Janjaweed* and GoS Forces killed at least 100 persons from Kodoom, Bindisi and surrounding areas, including the 52 persons listed in Annex 1A. These persons were either civilians taking no active part in hostilities or were persons *hors de combat*. **ABD-AL-RAHMAN** was aware of the factual circumstances that established their status.

38. The Militia/*Janjaweed* and GoS Forces killed persons in Kodoom areas, such as *Faqih* Umar Ya'qub Musa, the *Imam* of the Kodoom Tinah Mosque, and *Faqih* Abd-Al-Rahman Abdallah, an elderly man. In Bindisi, Militia/*Janjaweed* and GoS Forces killed persons fleeing, including Mudassir Ibrahim Garat and Omar Suleiman Muhammed. They detained other men, such as Rashid Issa and Adam Bosch, tied their hands behind their backs, laid them face down

and shot them to death. Another, Abd-al-Nasir, was beaten to death after he eluded the shots fired at him. In Bindisi or surrounding areas, some of the women were raped and killed, such as Kony Harun and Darasalam Husayn. Halima Isa was killed as she resisted attempts to rape her.

39. The Militia/*Janjaweed* and GoS Forces did not differentiate between victims; killing young boys, men, women and children fleeing to surrounding areas including mountains, bushes and fields to escape the attack.

Count 3: Murder as a war crime (violation of common article 3)

40. To the extent that the persons killed were civilians not taking direct part in hostilities or were persons *hors de combat*, and were killed when in the power of a party to the conflict, these persons were victims of murder as a violation of common article 3 of the Geneva Conventions. This is demonstrated, for example, by the use of restraints on victims, such as the tying of hands behind backs, or other evidence showing that victims were in the power of the Militia/*Janjaweed* or GoS Forces at the material time. The victims included Rashid Issa, Adam Bosch, Abd-al-Nasir, Kony Harun, Darasalam Husayn and Halima Issa, who were killed while in the power of Militia/*Janjaweed* and/or GoS Forces, as described at paragraph 38 above.

Count 4: Pillaging as a war crime

41. In Kodoom, Bindisi and surrounding areas, over the course of the attack which lasted at least two days, Militia/*Janjaweed* and GoS Forces broke into homes, shops, fenced fields, the hospital and veterinary clinic, and took food supplies, medicine, livestock and other property. The owners did not consent to the appropriation of their property, which the Militia/*Janjaweed* and GoS Forces intended to appropriate for private or personal use.

42. The Militia/*Janjaweed* and GoS Forces used their vehicles, camels, horses and donkeys to carry away furniture, television sets, mattresses, blankets, livestock and other property belonging to persons in Kodoom, Bindisi and surrounding areas.

Count 5: Destruction of the property of an adversary as a war crime

43. In Kodoom, Bindisi and surrounding areas, the Militia/*Janjaweed* and GoS Forces systematically destroyed properties belonging predominantly to the Fur civilian population, and these persons were perceived as the adversary. The physical perpetrators were aware of these factual circumstances establishing the status of the property. These properties were protected under the law of armed conflict. The destruction was not justified by military necessity.

44. In particular, at least 72 houses were destroyed by fire in Kodoom. In addition, houses were destroyed in Bindisi, including those belonging to [REDACTED] and [REDACTED], as well as shops, warehouses, and at least one mosque and its collection of Islamic books.

Count 6: Other inhumane acts as a crime against humanity; Count 7: Outrages upon personal dignity as a war crime

45. In Bindisi or surrounding areas, the Militia/*Janjaweed* and GoS Forces detained fleeing men and women and forced them to stand in separate lines according to their sex. The men in particular were forced to keep their backs turned to their female counterparts and were threatened with death if they failed to obey the order.

46. Women and men were partially stripped of their clothing, searched, and beaten. A member of the Militia/*Janjaweed* or GoS Forces pulled a baby boy from the harness of his mother and threw him in the air. The baby boy landed on the ground and had to be assisted by a person to recover from being thrown.

47. The Militia/*Janjaweed* and GoS Forces used pejorative language against the Fur persons during the course of the attack by uttering epithets such as slave and servant, and made derogatory references linked to skin-colour, while also stating that the GoS sent them to kill every black person.

48. Members of the Militia/*Janjaweed* and/or GoS Forces stripped some of the women of their clothing and others were beaten for refusing to take off their clothing. Some of these women were raped, with their clothing stuffed in their mouths. The Militia/*Janjaweed* and/or GoS Forces then forced them to return in the direction of Bindisi, from which they had fled to escape the ongoing Militia/*Janjaweed* and GoS Forces attack.

49. The material facts relevant to the crime of rape as a crime against humanity and a war crime, as described below at paragraphs 51 to 53, are incorporated herein by reference. Some of these victims were raped in the full view and/or hearing of other detained persons.

50. The victims described in this section were civilians taking no active part in hostilities or were *hors de combat*. The Militia/*Janjaweed* and GoS Forces who were mistreating them were aware of the factual circumstances that established this status. By their conduct, the Militia/*Janjaweed* and GoS Forces humiliated, degraded or otherwise violated the dignity of these victims. The severity of the humiliation, degradation or other violation was of such degree as to be generally recognised as an outrage upon personal dignity. They also inflicted great suffering, or serious injury to body or to mental or physical health. The physical perpetrators

were aware of the factual circumstances establishing the character (nature and gravity) of their acts.

Counts 8-9: Rape as a crime against humanity and a war crime

51. In Bindisi or surrounding areas, Militia/*Janjaweed* and GoS Forces raped at least 17 women, including the persons listed in Annex 1B. Additionally, they attempted to rape Halima Isa, who was killed while resisting. The perpetrators penetrated the bodies of these women and girls with a sexual organ, or the anal or genital opening of these women and girls with any object or any other part of the perpetrators' bodies.

52. A member of the Militia/*Janjaweed* or GoS Forces put his penis inside the vagina of [REDACTED]. This act was repeated by a second perpetrator. A third perpetrator was dissuaded from repeating the act of rape, as [REDACTED] appeared weak. Witness P-0011 was also raped by an unidentified attacker and a second attacker whom she identified as [REDACTED]. [REDACTED] was more brutal and accused her of being the wife of a *tora bora*, meaning rebel.

53. Some of the women raped by members of the Militia/*Janjaweed* and/or GoS Forces were women and girls selected from a group of captured persons. Some of these victims were raped in the full view and/or hearing of other detained persons. The rapes were committed by force, by threat of force or coercion, or within the context of violent attacks against persons in Bindisi and surrounding areas, which created a coercive environment where some of the named victims were restrained, raped and verbally abused.

Count 10: Forcible transfer as a crime against humanity

54. The conduct of the Militia/*Janjaweed* and GoS Forces during the attack on Kodoom, Bindisi and surrounding areas between about 15 and about 16 August 2003 served to expel or coerce the predominantly Fur population of these places into leaving Kodoom, Bindisi and surrounding areas.

55. Thousands of persons were forced to flee from Kodoom, Bindisi and surrounding areas, many eventually seeking refuge in Mukjar.

56. Persons who returned to Kodoom, Bindisi and surrounding areas soon after the attack found it uninhabitable, as their livestock had been taken and homes, shops, warehouses, at least one mosque and other buildings had been partially or fully destroyed by fire.

Count 11: Persecution as a crime against humanity

57. At the material times, **ABD-AL-RAHMAN** and the other perpetrators targeted persons in Bindisi, Kodoom and surrounding areas (the populations of which were predominantly Fur) perceived as belonging to, or being associated with, or supporting the rebel armed groups. They targeted them on political and ethnic grounds. **ABD-AL-RAHMAN** and the other perpetrators severely deprived, contrary to international law, these persons of fundamental rights, including the rights to life, bodily integrity, private property, freedom of movement and residence, and not to be subjected to rape, torture or cruel, inhumane or degrading treatment.

58. The facts described under Count 1 (intentionally directing attacks against the civilian population as such), Counts 2-3 (murder), Count 4 (pillaging), Count 5 (destruction of property), Count 6 (other inhumane acts), Count 7 (outrages upon personal dignity), Counts 8-9 (rape) and Count 10 (forcible transfer) form the underlying conduct of the crime of persecution. This conduct was committed in connection with these crimes.

ii. ABD-AL-RAHMAN's individual criminal responsibility

59. **ABD-AL-RAHMAN** is individually criminally responsible for the charged crimes pursuant to article 25(3)(b) (inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d)(i) and (ii) (common purpose liability) of the Rome Statute.

60. This section should be read in conjunction with Section 2 (Common elements of modes of individual criminal responsibility).

Inducing under article 25(3)(b) of the Rome Statute

61. Between about 15 and about 16 August 2003, **ABD-AL-RAHMAN** participated in the attack on Kodoom, Bindisi and surrounding areas with members of the Militia/*Janjaweed* and GoS Forces. **ABD-AL-RAHMAN** led these operations and decided the route, the tactics and when to move on from one village to the next. He also gave instructions during the operation to members of the GoS Forces, including PDF officer Abd-Al-Rahman Dawud HAMMUDAH, also known as HASSABALLAH, and Mukjar PDF coordinator Al-Sadiq Ahmad Uthman ZAKARIYA, to follow him from one village to the next and to carry on with the attack. He verbally encouraged Militia/*Janjaweed* and GoS Forces throughout the attack and organised the movement of the Militia/*Janjaweed* on the ground.

62. Through this conduct, **ABD-AL-RAHMAN** induced the Militia/*Janjaweed* and GoS Forces to commit the crimes of intentionally directing attacks against the civilian population as such, as a war crime (Count 1), murder as a crime against humanity and a war crime (Counts 2-3), pillaging as a war crime (Count 4), destruction of property as a war crime (Count 5),

forcible transfer as a crime against humanity (Count 10), and persecution as a crime against humanity (Count 11) in Kodoom, Bindisi and surrounding areas, and the crimes of other inhumane acts as a crime against humanity (Count 6), outrages upon personal dignity as a war crime (Count 7), and rape as a crime against humanity and a war crime (Counts 8-9) in Bindisi or surrounding areas. **ABD-AL-RAHMAN** exerted influence over the Militia/*Janjaweed* and GoS Forces, prompting them to commit the relevant crimes.

63. **ABD-AL-RAHMAN** meant to engage in the conduct described above. **ABD-AL-RAHMAN** meant for the Militia/*Janjaweed* and GoS Forces to commit the crimes and/or was aware that the Militia/*Janjaweed* and GoS Forces would, in the ordinary course of events, commit the crimes, and was aware that his conduct would contribute to their commission.

Aiding, abetting or otherwise assisting in the commission of crimes under article 25(3)(c) of the Rome Statute

64. **ABD-AL-RAHMAN** aided, abetted or otherwise assisted members of the Militia/*Janjaweed* and GoS Forces in the commission of the crimes of intentionally directing attacks against the civilian population as such, as a war crime (Count 1), murder as a crime against humanity and a war crime (Counts 2-3), pillaging as a war crime (Count 4), destruction of property as a war crime (Count 5), forcible transfer as a crime against humanity (Count 10), and persecution as a crime against humanity (Count 11) in Kodoom, Bindisi and surrounding areas, and the crimes of other inhumane acts as a crime against humanity (Count 6), outrages upon personal dignity as a war crime (Count 7), and rape as a crime against humanity and a war crime (Counts 8-9) in Bindisi or surrounding areas by:

- a. Being present in Mukjar and coordinating operations with senior members of the GoS in early August 2003;
- b. Leading the attack, including through the actions described above at paragraph 61, on Kodoom, Bindisi and surrounding areas between about 15 and about 16 August 2003;
- c. Coordinating operations with members of the PDF and other Militia/*Janjaweed* leaders during the attack on Kodoom, Bindisi and surrounding areas;
- d. Carrying on with the attack, despite objections expressed by some of those involved in the attack, including Militia/*Janjaweed*; and

- e. His conspicuous presence and approval, even if tacit, as the crimes were carried out.

65. **ABD-AL-RAHMAN** meant to engage in the conduct described above and provided this assistance for the purpose of facilitating the commission of the charged crimes. **ABD-AL-RAHMAN** was aware that members of the Militia/*Janjaweed* and GoS Forces would, in the ordinary course of events, commit the types of crimes charged, and was aware that his actions would contribute to their commission.

Common purpose liability under article 25(3)(d) of the Rome Statute

66. Between about 15 and about 16 August 2003, **ABD-AL-RAHMAN** intentionally contributed to the commission of crimes by a group of persons acting with a common purpose. The common purpose was to attack the predominantly Fur population of Kodoom, Bindisi and surrounding areas, including through the commission of the crimes of intentionally directing attacks against a civilian population as such, murder, pillaging, destruction of property, other inhumane acts, outrages upon personal dignity, rape, forcible transfer, and persecution (“Kodoom/Bindisi Common Purpose”).

67. The members of the group acting with the Kodoom/Bindisi Common Purpose included PDF officer Abd-Al-Rahman Dawud HAMMUDAH, also known as HASSABALLAH, Militia/*Janjaweed* leader Al-Dayf SAMIH, and other members of the Militia/*Janjaweed* and GoS Forces.

68. Through the conduct described above at paragraphs 61 and 64, **ABD-AL-RAHMAN** intentionally contributed to the commission of the crimes of intentionally directing attacks against the civilian population as such, as a war crime (Count 1), murder as a crime against humanity and a war crime (Counts 2-3), pillaging as a war crime (Count 4), destruction of property as a war crime (Count 5), forcible transfer as a crime against humanity (Count 10), and persecution as a crime against humanity (Count 11) in Kodoom, Bindisi and surrounding areas, and the crimes of other inhumane acts as a crime against humanity (Count 6), outrages upon personal dignity as a war crime (Count 7), and rape as a crime against humanity and a war crime (Counts 8-9) in Bindisi or surrounding areas, by this group of persons acting with a common purpose.

69. **ABD-AL-RAHMAN** made these contributions with the aim of furthering the criminal activity or criminal purpose of this group, and/or in the knowledge of the intention of the group to commit these crimes.

70. Based on the above, **ABD-AL-RAHMAN** is criminally responsible for:

COUNT 1: Intentionally directing attacks against the civilian population as such, as a war crime, concerning Kodoom, Bindisi and surrounding areas, between about 15 and about 16 August 2003, pursuant to article 8(2)(e)(i) and article 25(3)(b) (inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 2: Murder as a crime against humanity, concerning at least 100 persons, most of whom were Fur, including the 52 persons listed in Annex 1A, who were killed in Kodoom, Bindisi and surrounding areas, between about 15 and about 16 August 2003, pursuant to article 7(1)(a) and article 25(3)(b) (inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 3: Murder as a war crime, concerning those civilians not taking direct part in hostilities, or persons *hors de combat*, in particular those persons, from amongst the at least 100 persons killed in Kodoom, Bindisi and surrounding areas, who were at the material time in the power of the Militia/*Janjaweed* or GoS Forces, between about 15 and about 16 August 2003, pursuant to article 8(2)(c)(i) and article 25(3)(b) (inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 4: Pillaging as a war crime, concerning the looting of food supplies, livestock, medicine and other property belonging to Fur persons from their homes, shops, warehouses and other facilities in Kodoom, Bindisi and surrounding areas, between about 15 and about 16 August 2003, pursuant to article 8(2)(e)(v) and article 25(3)(b) (inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 5: Destruction of the property of an adversary, without military necessity, as a war crime, concerning the destruction by fire of the homes, shops, warehouses, at least one mosque, Islamic books and other physical structures used by and belonging to Fur persons in Kodoom, Bindisi and surrounding areas, between about 15 and about 16 August 2003, pursuant to article 8(2)(e)(xii) and article 25(3)(b) (inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 6: Other inhumane acts as a crime against humanity, concerning Fur persons who were beaten, verbally and physically abused and/or had to watch women being raped and a baby being thrown in the air in Bindisi or surrounding areas, between about 15 and about 16 August 2003, pursuant to article 7(1)(k) and article 25(3)(b) (inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 7: Outrages upon personal dignity as a war crime, concerning Fur persons who were beaten, verbally and physically abused and/or had to watch women being raped and a baby being thrown in the air in Bindisi or surrounding areas, between about 15 and about 16 August 2003, pursuant to article 8(2)(c)(ii) and article 25(3)(b) (inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 8: Rape as a crime against humanity, concerning at least 17 Fur women and girls, including the persons listed in Annex 1B in Bindisi or surrounding areas, between about 15 and about 16 August 2003, pursuant to article 7(1)(g) and article 25(3)(b) (inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 9: Rape as a war crime, concerning at least 17 Fur women and girls, including the persons listed in Annex 1B in Bindisi or surrounding areas, between about 15 and about 16 August 2003, pursuant to article 8(2)(e)(vi) and article 25(3)(b) (inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 10: Forcible transfer as a crime against humanity, concerning the expulsion of Fur persons lawfully present in Kodoom, Bindisi and surrounding areas, between about 15 and about 16 August 2003, pursuant to article 7(1)(d) and article 25(3)(b) (inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 11: Persecution as a crime against humanity, on political and ethnic grounds, concerning the predominantly Fur population of Kodoom, Bindisi and surrounding areas perceived as belonging to, or being associated with, or supporting the rebel armed groups, by means of intentionally directing attacks against the civilian population as such, murder, pillaging, destruction of property, other inhumane acts, rape and/or forcible transfer, between about 15 and about 16 August 2003, pursuant to article

7(1)(h) and article 25(3)(b) (inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.

b) Crimes committed in Mukjar and surrounding areas between the end of February 2004 and the beginning of March 2004 (Counts 12-21)

i. The crimes

71. This section should be read in conjunction with Section 1 (Contextual elements of article 7 and article 8).

72. During the charged period, Mukjar was a town located in the Mukjar Administrative Unit of Mukjar Locality in West Darfur. Mukjar was approximately 49 kilometres southeast of the town of Garsila, approximately 59 kilometres south of the town of Deleig, and approximately 19 kilometres east of the town of Bindisi.

73. Between at least February and March 2004, the Militia/*Janjaweed* and GoS Forces attacked several villages in the areas surrounding Mukjar. These attacks caused hundreds of civilians to seek shelter in Mukjar.

74. In February 2004, the Militia/*Janjaweed* and GoS Forces set up checkpoints to the north and east of Mukjar. The Militia/*Janjaweed* and GoS Forces arrested hundreds of predominantly Fur males at locations including the checkpoints and during house to house searches. The Militia/*Janjaweed* and GoS Forces perceived displaced Fur males as belonging to, or being associated with, or supporting the rebel armed groups.

75. The Militia/*Janjaweed* and GoS Forces continued to arrest predominantly Fur males in Mukjar until at least early March 2004. Some of them were detained at the Mukjar police station and adjacent detention facilities (referred to in this document as “Mukjar police station”) where they were mistreated and kept in inhumane conditions. At least 50 predominantly Fur men were executed.

76. The GoS Forces that participated in the operation in Mukjar between at least late February and early March 2004 included the SAF (including Military Intelligence), the PDF, the PPF, the CRF and the Police.

Counts 12-13: Torture as a crime against humanity and a war crime; Count 14: Other inhumane acts as a crime against humanity; Count 15: Cruel treatment as a war crime; Count 16: Outrages upon personal dignity as a war crime

77. At least 100 arrested males, including community leaders such as *Umdahs*, *Sheikhs*, doctors and teachers, of predominantly Fur ethnicity, were taken to Mukjar police station where they were interrogated and beaten over a period of at least two days.

78. The conditions of detention at Mukjar police station were inhumane. Over the course of at least two days, at least 100 detainees were squeezed into rooms measuring around five by seven meters and forced to squat in place. They were scared, thirsty and tired. They had no access to toilets and were forced to urinate and defecate where they squatted. The temperature was stiflingly hot, as air only entered through one small window. Some detainees were given a loaf of stale bread to share among 10 of them, alongside dirty water to drink. Others were given nothing.

79. Over the course of at least two days, detainees were interrogated, beaten and mistreated by **ABD-AL-RAHMAN** and Militia/*Janjaweed* and GoS Forces, including Al-Dayf SAMIH and Hamdi Sharaf-Al-Din SID AHMAD. **ABD-AL-RAHMAN** personally beat the *Umdahs* and *Sheikhs* with his axe, while Militia/*Janjaweed* and GoS Forces beat the other detainees. **ABD-AL-RAHMAN** struck *Umdah* Yahya Ahmad Zarruq to the skull with an axe, severely injuring him. **ABD-AL-RAHMAN** also struck *Umdah* Issa Harun Nour, *Umdah* Adam Husayn Abdelm Mahmoud (also known as Doorri) on the head with his axe. **ABD-AL-RAHMAN** also used his axe to strike and injure *Sheikh* Muhammad Ali Bolot (also known as Jabbor), *Sheikh* Abdallah Ahmad Hasan, Muhammad Umar Ahmad Zarruq, Ahmad Muhammad Barbayi, Adam Nahid Numan and Yusuf Muhajir.

80. **ABD-AL-RAHMAN** referred to the detainees as *magus*, a derogatory term used to refer to idol worshippers. **ABD-AL-RAHMAN** beat Witness P-0919 and Witness P-0129 with his whip and axe. Militia/*Janjaweed* cut off the ears of three detainees and used knives to shave the heads of two others. The detainees cried in pain and some bled profusely. None received any medical treatment.

81. The mistreatment of these males, including their conditions of detention, inflicted on them severe physical or mental pain or suffering, or great suffering or serious injury to body or to mental and physical health. The pain and suffering did not arise from and was not inherent in or incidental to lawful sanctions. The perpetrators inflicted the pain and suffering to obtain information or a confession, punish, intimidate or coerce the detained predominantly Fur males

or for reasons based on political, ethnic and gender discrimination. **ABD-AL-RAHMAN** and the other physical perpetrators were aware of the factual circumstances establishing the character (nature and gravity) of their acts. At all material times, the Fur males were in the custody or under the control of the perpetrators.

82. The mistreatment, including the conditions of their detention, of these Fur males also humiliated, degraded or otherwise violated their dignity. The severity of the humiliation, degradation or other violation was of such degree as to be generally recognised as an outrage upon personal dignity.

83. These detainees were either persons *hors de combat* or were civilians taking no active part in the hostilities. **ABD-AL-RAHMAN** and the other perpetrators were aware of the factual circumstances that established their status.

Counts 17-18: Murder as a crime against humanity and a war crime; Counts 19-20: Attempted murder as a crime against humanity and a war crime

84. Between late February and early March 2004, the Militia/*Janjaweed* and GoS Forces took at least 50 predominantly Fur men detained at the Mukjar police station and killed them. Amongst them were community leaders, including *Umdah* Yahya Ahmad Zarruq, *Umdah* Issa Harun Nour, *Umdah* Adam Husayn Abdelm Mahmoud (also known as Doorri), and *Sheikh* Abdallah Ahmad Hasan.

85. The Militia/*Janjaweed* and GoS Forces, including **ABD-AL-RAHMAN**, ordered the detainees to leave their prison cells. As they walked outside the Mukjar police station, **ABD-AL-RAHMAN** personally beat some of them with his axe, including *Umdah* Yahya Ahmad Zarruq, *Umdah* Issa Harun Nour and *Umdah* Adam Husayn Abdelm Mahmoud (also known as Doorri). The Militia/*Janjaweed* and GoS Forces then stacked them on top of one another in the back of vehicles and ordered them to lie face down and not to raise their heads. Some of the detainees were blindfolded. The Militia/*Janjaweed* and GoS Forces accompanied them in the vehicles and continued beating and insulting them throughout the journey. **ABD-AL-RAHMAN** and Hamdi Sharaf-Al-Din SID AHMAD were part of the convoy.

86. The Militia/*Janjaweed* and GoS Forces drove the detainees north of Mukjar in the direction of Garsila and brought them to several locations outside of Mukjar. The Militia/*Janjaweed* and GoS Forces ordered the detainees to get out of the vehicles. **ABD-AL-RAHMAN** personally ordered some of the detainees, including community leaders, to do so.

ABD-AL-RAHMAN beat them with his axe, while Al-Dayf SAMIH beat them with a Kalashnikov, whip and stick.

87. The detainees were ordered to lie face down on the ground in several lines. **ABD-AL-RAHMAN** told them *ajiro argodo*, meaning to run and sleep on their stomach. The Militia/*Janjaweed* and GoS Forces then shot and killed them. **ABD-AL-RAHMAN** stood next to the Militia/*Janjaweed* and GoS Forces as they opened fire and ordered them to repeat the shooting until the detainees were dead. Afterwards, members of the Militia/*Janjaweed* and GoS Forces walked on the bodies to make sure that they had died. Al-Dayf SAMIH and Hamdi Sharaf-Al-Din SID AHMAD were also present during the executions.

88. At least eight male detainees in one of the vehicles, including a *Sheikh* and five of his students, were later killed at another location. At **ABD-AL-RAHMAN**'s orders, the detainees were unloaded from the vehicle and SAF soldier Muqaddam IDRIS shot and killed them.

89. By the above conduct, the Militia/*Janjaweed* and GoS Forces caused the deaths of at least 50 predominantly Fur males, including the 49 persons listed in Annex 1C.

90. At least two of the detained Fur males survived, despite the intention of the perpetrators to kill them:

- a. [REDACTED].
- b. [REDACTED].

91. Acting on **ABD-AL-RAHMAN**'s orders, members of the Militia/*Janjaweed* and GoS Forces attempted to murder at least these two men by taking action that commenced the execution of the crime by means of a substantial step, but the crime did not occur because of circumstances independent of their intentions.

92. All of the persons killed, or attempted to be killed, between late February and early March 2004, through the conduct described above, were either persons *hors de combat* or were civilians taking no active part in the hostilities, and at all material times were in the power of the perpetrators of the killings. **ABD-AL-RAHMAN** and the perpetrators were aware of the factual circumstances that established the victims' status.

Count 21: Persecution as a crime against humanity

93. At the material times, **ABD-AL-RAHMAN** and the other perpetrators targeted Fur males in Mukjar perceived as belonging to, or being associated with, or supporting the rebel

armed groups. They targeted them on political, ethnic and gender grounds. The victims' Fur ethnicity, combined with the socially-constructed gender role presuming males to be fighters, underpinned the perpetrators' perception of them as rebels or rebel sympathisers. **ABD-AL-RAHMAN** and the other perpetrators severely deprived, contrary to international law, these persons of fundamental rights, including the rights to life, and not to be subjected to torture or cruel, inhumane or degrading treatment.

94. The facts described above under Counts 12-13 (torture), Count 14 (other inhumane acts), Count 15 (cruel treatment), Count 16 (outrages against personal dignity), Counts 17-18 (murder), and Counts 19-20 (attempted murder) form the underlying conduct of the crime of persecution. This conduct was committed in connection with these crimes.

ii. ABD-AL-RAHMAN's individual criminal responsibility

95. **ABD-AL-RAHMAN** is individually criminally responsible for the charged crimes pursuant to article 25(3)(a) (direct perpetration and co-perpetration), and/or article 25(3)(b) (ordering and/or inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d)(i) and (ii) (common purpose liability). In addition, he is responsible for the crime of attempted murder pursuant to article 25(3)(f).

96. This section should be read in conjunction with Section 2 (Common elements of modes of individual criminal responsibility).

Co-perpetration under article 25(3)(a) of the Rome Statute

97. **ABD-AL-RAHMAN** committed the crimes of torture as a crime against humanity and a war crime (Counts 12-13), other inhumane acts as a crime against humanity (Count 14), cruel treatment as a war crime (Count 15), outrages upon personal dignity as a war crime (Count 16), murder as a crime against humanity and a war crime (Counts 17-18), attempted murder as a crime against humanity and a war crime (Counts 19-20), and persecution as a crime against humanity (Count 21) in concert with others through his participation in, and essential contributions to, a common plan.

98. At least between late February and early March 2004, **ABD-AL-RAHMAN** shared a common plan or agreement with a group consisting of members of the Militia/*Janjaweed* and GoS Forces to target persons in Mukjar, including those displaced to Mukjar from locations in the surrounding areas, perceived as belonging to, or being associated with, or supporting the rebel armed groups, including through the commission of the crimes of torture, other inhumane acts, cruel treatment, outrages upon personal dignity, murder and persecution ("Mukjar

Common Plan”). The Mukjar Common Plan came into existence, at the latest, between late February and early March 2004.

99. Other persons sharing the Mukjar Common Plan included Militia/*Janjaweed* leader Al-Dayf SAMIH, Military Intelligence officer Hamdi Sharaf-Al-Din SID AHMAD, and other members of Militia/*Janjaweed* and GoS Forces.

100. Pursuant to the Mukjar Common Plan, between late February and early March 2004, **ABD-AL-RAHMAN** and his co-perpetrators engaged in conduct which led to the commission of the charged crimes.

101. **ABD-AL-RAHMAN** made an essential contribution to the Mukjar Common Plan and the charged crimes by:

- a. Instructing GoS forces to arrest persons fleeing to Mukjar from other locations, personally conducting arrests of men in Mukjar, as well as contributing to such arrests by way of his presence;
- b. Threatening and verbally abusing the detainees in Mukjar police detention facilities in February/early March 2004 in the presence of members of the Militia/*Janjaweed* and/or GoS Forces;
- c. Physically assaulting detainees at Mukjar police station, including Witness P-0129, Witness P-0919, *Umdah* Issa Harun Nour, *Umdah* Adam Husayn Abdelmahmoud (also known as Doorri), *Umdah* Yahya Ahmad Zarruq, *Sheikh* Muhammad Ali Bolot (also known as Jobbor), *Sheikh* Abdallah Ahmad Hasan, Muhammad Umar Ahmad Zarruq, Ahmad Muhammad Barbayi, Adam Nahid Numan and Yusuf Muhajir in the presence of members of the Militia/*Janjaweed* and/or GoS Forces;
- d. Obtaining the transfer of detainees into the custody of **ABD-AL-RAHMAN** and his co-perpetrators;
- e. Selecting detainees, including community leaders, to be removed from Mukjar police station and executed;
- f. Providing vehicles that were used to transport detainees to locations outside of Mukjar where they were killed or attempted to be killed;

- g. Supervising the transport of a group of detained men, including community leaders, from Mukjar police station to execution sites;
- h. Physically assaulting detainees, including community leaders, at one or more execution sites in the presence of members of the Militia/*Janjaweed* and/or GoS Forces; and
- i. Instructing members of the Militia/*Janjaweed* and/or GoS Forces to kill detainees at execution sites and/or exerting influence over the Militia/*Janjaweed* and/or GoS Forces, prompting them to carry out the killings.

102. **ABD-AL-RAHMAN** meant to engage in the conduct described above and intended to bring about the objective elements of the charged crimes and/or was aware that these crimes would occur in the ordinary course of events in implementing the Mukjar Common Plan. **ABD-AL-RAHMAN** was aware that the Mukjar Common Plan involved an element of criminality. He was further aware of his essential role in the Mukjar Common Plan, the essential nature of his contributions, as set out above, and of his ability, jointly with other co-perpetrators, to control the commission of the crimes.

Direct perpetration under article 25(3)(a) of the Rome Statute

103. **ABD-AL-RAHMAN** directly perpetrated the crimes of torture as a crime against humanity and a war crime (Counts 12-13), other inhumane acts as a crime against humanity (Count 14), cruel treatment as a war crime (Count 15), outrages upon personal dignity as a war crime (Count 16), and persecution as a crime against humanity (Count 21) by:

- a. Threatening and verbally abusing the detainees at Mukjar police station; and
- b. Physically assaulting detainees at Mukjar police station, including Witness P-0129, Witness P-0919, *Umdah* Issa Harun Nour, *Umdah* Abdelmahmoud, *Umdah* Yahya Ahmad Zarruq, *Sheikh* Muhammad Ali Bolot (aka Jabbor), *Sheikh* Abdallah Ahmad Hasan, Muhammad Umar Ahmad Zarruq, Ahmad Muhammad Barbayi, Adam Nahid Numan and Yusuf Muhajir.

104. **ABD-AL-RAHMAN** meant to engage in the conduct described above. **ABD-AL-RAHMAN** intended to bring about the objective elements of the charged crimes and/or was aware that these crimes would occur in the ordinary course of events as a result of his conduct.

Ordering under article 25(3)(b) of the Rome Statute

105. **ABD-AL-RAHMAN**, while being in a position of authority, ordered members of the Militia/*Janjaweed* and/or the GoS Forces to shoot and kill detained Fur males (as described above at paragraphs 87 to 88, and 101). One or more of these members carried out **ABD-AL-RAHMAN**'s orders, which led to the commission of the crimes of murder as a crime against humanity and a war crime (Counts 17-18), and persecution as a crime against humanity (Count 21), and the attempted commission of the crimes of murder as a crime against humanity and a war crime (Counts 19-20).

106. **ABD-AL-RAHMAN** meant to engage in the conduct described above and was aware of his position of authority over the physical perpetrators of the crimes. **ABD-AL-RAHMAN** meant for the Militia/*Janjaweed* and GoS Forces to commit the crimes and/or was aware that the Militia/*Janjaweed* and GoS Forces would, in the ordinary course of events, commit the crimes, and was aware that his conduct would contribute to their commission.

Inducing under article 25(3)(b) of the Rome Statute

107. Through the conduct described above at paragraph 101, **ABD-AL-RAHMAN** induced the Militia/*Janjaweed* and GoS Forces to commit the crimes of torture as a crime against humanity and a war crime (Counts 12-13), other inhumane acts as a crime against humanity (Count 14), cruel treatment as a war crime (Count 15), outrages upon personal dignity as a war crime (Count 16), murder as a crime against humanity and a war crime (Counts 17-18), and persecution as a crime against humanity (Count 21), and to attempt to commit the crimes of murder as a crime against humanity and a war crime (Counts 19-20). **ABD-AL-RAHMAN** exerted influence over the Militia/*Janjaweed* and GoS Forces, prompting them to commit the relevant crimes.

108. **ABD-AL-RAHMAN** meant to engage in the conduct described above. **ABD-AL-RAHMAN** meant for the Militia/*Janjaweed* and GoS Forces to commit the crimes and/or was aware that the Militia/*Janjaweed* and GoS Forces would, in the ordinary course of events, commit the crimes, and was aware that his conduct would contribute to their commission.

Aiding, abetting or otherwise assisting in the commission or attempted commission of crimes under article 25(3)(c) of the Rome Statute

109. Through the conduct described above at paragraph 101, **ABD-AL-RAHMAN** aided, abetted or otherwise assisted members of the Militia/*Janjaweed* and GoS Forces in the commission of the crimes of torture as a crime against humanity and a war crime (Counts 12-13), other inhumane acts as a crime against humanity (Count 14), cruel treatment as a war crime

(Count 15), outrages upon personal dignity as a war crime (Count 16), murder as a crime against humanity and a war crime (Counts 17-18), and persecution as a crime against humanity (Count 21), and the attempted commission of the crimes of murder as a crime against humanity and a war crime (Counts 19-20).

110. **ABD-AL-RAHMAN** meant to engage in the relevant conduct and provided this assistance with the aim of facilitating the commission of the charged crimes. **ABD-AL-RAHMAN** was aware that members of the Militia/*Janjaweed* and GoS Forces would, in the ordinary course of events, commit the types of crimes charged, and was aware that his conduct would contribute to their commission.

Common purpose liability under article 25(3)(d) of the Rome Statute

111. At least between late February and early March 2004, **ABD-AL-RAHMAN** intentionally contributed to the commission and attempted commission of crimes by a group of persons acting with a common purpose. The common purpose was to target persons in Mukjar, including persons displaced to Mukjar from locations in the surrounding areas, perceived as belonging to, or being associated with, or supporting the rebel armed groups, including through the commission of the crimes of torture, cruel treatment, other inhumane acts, outrages upon personal dignity, murder, and persecution (“Mukjar Common Purpose”).

112. The members of the group acting with the Mukjar Common Purpose included Militia/*Janjaweed* leader Al-Dayf SAMIH, Military Intelligence officer Hamdi Sharaf-Al-Din SID AHMAD, and other members of the Militia/*Janjaweed* and GoS Forces.

113. Through the conduct described above at paragraph 101, **ABD-AL-RAHMAN** intentionally contributed to the commission of the crimes of torture as a crime against humanity and a war crime (Counts 12-13), other inhumane acts as a crime against humanity (Count 14), cruel treatment as a war crime (Count 15), outrages upon personal dignity as a war crime (Count 16), murder as a crime against humanity and a war crime (Counts 17-18), and persecution as a crime against humanity (Count 21), and the attempted commission of the crime of murder as a crime against humanity and a war crime (Counts 19-20).

114. **ABD-AL-RAHMAN** made these contributions with the aim of furthering the criminal activity or criminal purpose of this group, and/or in the knowledge of the intention of the group to commit the crimes charged.

115. Based on the above, **ABD-AL-RAHMAN** is criminally responsible for:

COUNT 12: Torture as a crime against humanity, concerning at least 100 Fur men in Mukjar Police Station, between late February and early March 2004, pursuant to article 7(1)(f) and article 25(3)(a) (direct perpetration and co-perpetration), and/or article 25(3)(b) (inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 13: Torture as a war crime, concerning at least 100 Fur men in Mukjar Police Station, between late February and early March 2004, pursuant to article 8(2)(c)(i) and article 25(3)(a) (direct perpetration and co-perpetration), and/or article 25(3)(b) (inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 14: Other inhumane acts as a crime against humanity, concerning at least 100 Fur men in Mukjar Police Station, between late February and early March 2004, pursuant to article 7(1)(k) and article 25(3)(a) (direct perpetration and co-perpetration), and/or article 25(3)(b) (inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 15: Cruel treatment as a war crime, concerning at least 100 Fur men in Mukjar Police Station, between late February and early March 2004, pursuant to article 8(2)(c)(i) and article 25(3)(a) (direct perpetration and co-perpetration), and/or article 25(3)(b) (inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 16: Outrages against personal dignity as a war crime, concerning at least 100 Fur men in Mukjar Police Station, between late February and early March 2004, pursuant to article 8(2)(c)(ii) and article 25(3)(a) (direct perpetration and co-perpetration), and/or article 25(3)(b) (inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 17: Murder as a crime against humanity, concerning at least 50 Fur men, including the 49 persons listed in Annex 1C, outside of Mukjar, between late February and early March 2004, pursuant to article 7(1)(a) and article 25(3)(a) (co-perpetration), and/or article 25(3)(b) (ordering and/or inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 18: Murder as a war crime, concerning at least 50 Fur men, including the 49 persons listed in Annex 1C, outside of Mukjar, between late February and early March 2004, pursuant to article 8(2)(c)(i) and article 25(3)(a) (co-perpetration), and/or article 25(3)(b) (ordering and/or inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability).

COUNT 19: Attempted murder as a crime against humanity, concerning at least two Fur males, [REDACTED], outside of Mukjar, between late February and early March 2004, pursuant to article 7(1)(a) and articles 25(3)(f) and 25(3)(a) (co-perpetration), and/or articles 25(3)(f) and 25(3)(b) (ordering and/or inducing), and/or articles 25(3)(f) and 25(3)(c) (aiding, abetting or otherwise assisting), and/or articles 25(3)(f) and 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 20: Attempted murder as a war crime, concerning at least two Fur males, [REDACTED], outside of Mukjar, between late February and early March 2004, pursuant to article 8(2)(c)(i) and articles 25(3)(f) and 25(3)(a) (co-perpetration), and/or articles 25(3)(f) and 25(3)(b) (ordering and/or inducing), and/or articles 25(3)(f) and 25(3)(c) (aiding, abetting or otherwise assisting), and/or articles 25(3)(f) and 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 21: Persecution as a crime against humanity, on political, ethnic and gender grounds, concerning at least 100 Fur males perceived as belonging to, or being associated with, or supporting rebel armed groups, by means of torture, cruel treatment, other inhumane acts, outrages upon personal dignity, murder and/or attempted murder, in Mukjar and surrounding areas, in late February/early March 2004, pursuant to article 7(1)(h) and article 25(3)(a) (direct perpetration and co-perpetration), and/or article 25(3)(b) (inducing and/or ordering), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.

c) Crimes committed in Deleig and surrounding areas between about 5 and about 7 March 2004 (Counts 22-31)

i. The crimes

116. This section should be read in conjunction with Section 1 (Contextual elements of article 7 and article 8).

117. During the charged period, Deleig was a town located in the Garsila-Deleig Administrative Unit of Wadi Salih Locality, West Darfur. Deleig was approximately 17 kilometres northeast of the town of Garsila, approximately 53 kilometres southwest of the town of Zalingei, and approximately 59 kilometres north of Mukjar and Bindisi. The population of Deleig was predominantly Fur.

118. Between at least August 2003 and March 2004, Militia/*Janjaweed* and GoS Forces attacked several villages in the areas surrounding Deleig. These attacks caused thousands of civilians to seek shelter in Deleig, Garsila and other towns.

119. On or about Friday, 5 March 2004, Militia/*Janjaweed* and GoS Forces surrounded Deleig and prevented people from leaving or entering the town. Militia/*Janjaweed* and GoS Forces went through the streets and from house to house searching for Fur males who had been displaced to Deleig from locations in the surrounding areas. The Militia/*Janjaweed* and GoS Forces perceived Fur males coming from these locations as belonging to, or being associated with, or supporting the rebel armed groups.

120. On this day, the Militia/*Janjaweed* and GoS Forces arrested between 100 and 200 Fur males in Deleig, including *Umdah* Adam Kindiri and *Umdah* Jiddo Khamis. **ABD-AL-RAHMAN** also transported at least four detained Fur males from Garsila to Deleig, including *Sheikh* Ismail Abdulaziz (also known as Dikobi), *Umdah* Mohamed Suleiman Abdulshafa, Hassan Adam Musa and [REDACTED]. In the previous days, **ABD-AL-RAHMAN** had arrested [REDACTED] in Garsila, and had ordered a member of the Militia/*Janjaweed* to arrest *Sheikh* Ismail Abdulaziz (also known as Dikobi) and Hassan Adam Musa in Garsila, which he did.

121. The Militia/*Janjaweed* and GoS Forces continued to arrest Fur males in Deleig until at least 7 March 2004. The GoS Forces that participated in the operation in Deleig between about 5 and about 7 March 2004 included the SAF (including Military Intelligence), the PDF, the CRF and the Police.

Counts 22-23: Torture as a crime against humanity and a war crime; Count 24: Other inhumane acts as a crime against humanity; Count 25: Cruel treatment as a war crime; Count 26: Outrages upon personal dignity as a war crime

122. On or about 5 March 2004, the Militia/*Janjaweed* and GoS Forces brought the arrested Fur males to an open area near the Deleig police station where they were made to lie face down on the ground. Some had their hands tied behind their backs and some were blindfolded. The

detainees were made to lie in the hot sun and were denied food, water and access to toilet facilities for prolonged periods of time, ranging from hours up to several days.

123. The Militia/*Janjaweed* and GoS Forces walked on the backs and heads of the detained males, beat them with rifle butts and sticks, and verbally abused them. They stabbed at least one detained male with a bayonet. **ABD-AL-RAHMAN** stood or walked on the backs of detainees, hit them with a stick or axe-like object, kicked them, and verbally abused them. The Militia/*Janjaweed* and GoS Forces later threw some of the Fur males onto the backs of vehicles like objects.

124. Some of the arrested males were detained in overcrowded conditions inside the Deleig police station for up to several days. Militia/*Janjaweed* and/or GoS Forces whipped, threatened to kill, and beat at least one of these males, Witness P-0027.

125. During the search and arrest operation in different areas of Deleig, the Militia/*Janjaweed* and GoS Forces whipped, beat and kicked persons.

126. The total number of detained Fur males was between 100 and 200. The mistreatment of these males, including their conditions of detention, inflicted on them severe physical or mental pain or suffering, or great suffering or serious injury to body or to mental and physical health. The pain and suffering did not arise from and was not inherent in or incidental to lawful sanctions. The perpetrators inflicted the pain and suffering to obtain information or a confession, punish, intimidate or coerce the detained Fur males or for reasons based on political, ethnic and gender discrimination. **ABD-AL-RAHMAN** and the other physical perpetrators were aware of the factual circumstances establishing the character (nature and gravity) of their acts. At all material times, the Fur males were in the custody or under the control of the perpetrators.

127. The mistreatment, including the conditions of their detention, of these Fur males also humiliated, degraded or otherwise violated their dignity. The severity of the humiliation, degradation or other violation was of such degree as to be generally recognised as an outrage upon personal dignity.

128. These Fur males were either persons *hors de combat* or were civilians taking no active part in the hostilities. **ABD-AL-RAHMAN** and the other perpetrators were aware of the factual circumstances that established their status.

Counts 27-28: Murder as a crime against humanity and a war crime; Counts 29-30: Attempted murder as a crime against humanity and a war crime

129. On or about 5 March 2004, in or near the Deleig police station, **ABD-AL-RAHMAN** struck two or three Fur male detainees—a community leader known as Motor, the PDF coordinator in Garsila known as Jenif, and a man from Arawala known as Adam Jinet—to the head with a stick or axe-like object. These males died as a consequence of this conduct.

130. On **ABD-AL-RAHMAN**'s orders, the Militia/*Janjaweed* and GoS Forces loaded groups of the detained Fur males onto vehicles, including at least two motionless bodies. The vehicles drove to different locations outside of Deleig. At these locations, the Militia/*Janjaweed* and GoS Forces unloaded the detained Fur males from the vehicles and shot at them, killing most or all of the detainees in each group. At one or more of these locations, **ABD-AL-RAHMAN** ordered the Militia/*Janjaweed* and/or GoS Forces to unload the males and to shoot and kill them. The vehicles returned empty of detainees to the open area near the Deleig police station. The process of loading detainees onto vehicles, transporting them to locations outside of Deleig, unloading them, and shooting them to death was repeated several times on or about 5 March 2004.

131. On or about Sunday, 7 March 2004, Militia/*Janjaweed* and/or GoS Forces drove a group of Fur males detainees, including *Umdah* Adam Kindiri, *Umdah* Jiddo Khamis, *Umdah* Mohamed Suleiman Abdulshafa, *Sheikh* Ismail Abdulaziz (also known as Dikobi), and Hassan Adam Musa to a location outside of Deleig, unloaded them, and killed them. Earlier on the same day, **ABD-AL-RAHMAN** was in a convoy of vehicles in Deleig with several of these detained Fur males.

132. By the above conduct, the Militia/*Janjaweed* and GoS Forces caused the deaths of at least 100 Fur males, including the 34 persons listed in Annex 1D.

133. Several of the detained Fur males survived, despite the intention of the perpetrators to kill them:

- a. [REDACTED].
- b. [REDACTED].

134. The perpetrators attempted to murder at least these 12 males, and any other persons who survived the conduct described above, by taking action that commenced the execution of the crime by means of a substantial step, but the crime did not occur because of circumstances independent of their intentions.

135. All of the persons killed, or attempted to be killed, between about 5 and about 7 March 2004, through the conduct described above, were either persons *hors de combat* or were civilians taking no active part in the hostilities, and at all material times were in the power of the perpetrators of the killings. **ABD-AL-RAHMAN** and the physical perpetrators were aware of the factual circumstances that established the victims' status.

Count 31: Persecution as a crime against humanity

136. At the material times, **ABD-AL-RAHMAN** and the other perpetrators targeted Fur males in Deleig perceived as belonging to, or being associated with, or supporting the rebel armed groups. They targeted them on political, ethnic and gender grounds. The victims' Fur ethnicity, combined with the socially-constructed gender role presuming males to be fighters, underpinned the perpetrators' perception of them as rebels or rebel sympathisers. **ABD-AL-RAHMAN** and the other perpetrators severely deprived, contrary to international law, Fur males in Deleig of fundamental rights, including the rights to life, and not to be subjected to torture or cruel, inhumane or degrading treatment.

137. The facts described above under Counts 22-23 (torture), Count 24 (other inhumane acts), Count 25 (cruel treatment), Count 26 (outrages upon personal dignity), Counts 27-28 (murder), and Counts 29-30 (attempted murder) constitute the underlying conduct of the crime against humanity of persecution. This conduct was committed in connection with these crimes.

ii. ABD-AL-RAHMAN's individual criminal responsibility

138. **ABD-AL-RAHMAN** is criminally responsible for the charged crimes under article 25(3)(a) (direct perpetration and co-perpetration), and/or article 25(3)(b) (ordering and/or inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d)(i) and (ii) (common purpose liability) of the Rome Statute. In addition, he is responsible for the crime of attempted murder pursuant to article 25(3)(f).

139. This section should be read in conjunction with Section 2 (Common elements of modes of individual criminal responsibility).

Co-perpetration under article 25(3)(a) of the Rome Statute

140. **ABD-AL-RAHMAN** committed the crimes of torture as a crime against humanity and a war crime (Counts 22-23), other inhumane acts as a crime against humanity (Count 24), cruel treatment as a war crime (Count 25), outrages upon personal dignity as a war crime (Count 26),

murder as a crime against humanity and a war crime (Counts 27-28), and persecution as a crime against humanity (Count 31), and the attempted commission of the crimes of murder as a crime against humanity and a war crime (Counts 29-30) through his participation in, and essential contribution to, a common plan.

141. At least between about 5 and about 7 March 2004, **ABD-AL-RAHMAN** shared a common plan or agreement with a group consisting of members of the Militia/*Janjaweed* and GoS Forces to target persons in Deleig, including those displaced to Deleig from locations in the surrounding areas, perceived as belonging to, or being associated with, or supporting the rebel armed groups, including through the commission of the crimes of torture, other inhumane acts, cruel treatment, outrages upon personal dignity, murder, and persecution (“Deleig Common Plan”). The Deleig Common Plan came into existence, at the latest, on or about 5 March 2004.

142. Other persons sharing the Deleig Common Plan included Military Intelligence officer Lieutenant Hamdi Sharaf-Al-Din SID AHMAD, Military Intelligence officer Mussadiq Hassan MANSUR, and PDF officer Abd-Al-Rahman Dawud HAMMUDAH, also known as HASSABALLAH, and other members of the Militia/*Janjaweed* and GoS Forces.

143. Pursuant to the Deleig Common Plan, between about 5 and about 7 March 2004, **ABD-AL-RAHMAN** and his co-perpetrators engaged in conduct which led to the commission of the charged crimes.

144. **ABD-AL-RAHMAN** made an essential contribution to the Deleig Common Plan and the charged crimes by:

- a. Arresting and ordering the arrest of Fur males in Garsila and transporting them to Deleig where they were detained, mistreated, and killed or attempted to be killed in Deleig or surrounding areas;
- b. Ordering, being present during, and participating in the search and arrest operation in Deleig;
- c. Being present in the open area near Deleig police station where the Fur males were being detained;
- d. Inspecting and questioning detainees, and deciding whether they would be released or not;

- e. Killing two or three Fur males by striking them to the head with a stick or axe-like object (a community leader known as Motor, the PDF coordinator in Garsila known as Jenif, and a man from Arawala known as Adam Jinet);
- f. Mistreating detainees by standing and walking on their backs, hitting them with a stick or axe-like object, kicking them, and verbally abusing them;
- g. Providing vehicles that were used to transport detainees, including to locations outside of Deleig where they were killed or attempted to be killed;
- h. Ordering, being present during, and supervising the loading of detainees onto vehicles that transported them to locations outside of Deleig where they were killed or attempted to be killed;
- i. Ordering the Militia/*Janjaweed* and/or GoS Forces to unload and then shoot and kill detained Fur males at one or more locations outside of Deleig; and
- j. Being present at one or more of the locations outside of Deleig where detainees were transported and then killed.

145. **ABD-AL-RAHMAN** meant to engage in the conduct described above and intended to bring about the objective elements of the charged crimes and/or was aware that these crimes would occur in the ordinary course of events in implementing the Deleig Common Plan. **ABD-AL-RAHMAN** was aware that the Deleig Common Plan involved an element of criminality. He was further aware of his essential role in the Deleig Common Plan, the essential nature of his contributions, as set out above, and of his ability, jointly with other co-perpetrators, to control the commission of the crimes.

Direct perpetration under article 25(3)(a) of the Rome Statute

146. **ABD-AL-RAHMAN** directly perpetrated the crimes of murder as a crime against humanity and a war crime (Counts 27-28), and persecution as a crime against humanity (Count 31) by striking two or three Fur male detainees—a community leader known as Motor, the PDF coordinator in Garsila known as Jenif, and a man from Arawala known as Adam Jinet—to the head with a stick or axe-like object, killing them (as described above at paragraph 129).

147. **ABD-AL-RAHMAN** directly perpetrated the crimes of torture as a crime against humanity and a war crime (Counts 22-23), other inhumane acts as a crime against humanity (Count 24), cruel treatment as a war crime (Count 25), and outrages upon personal dignity as a war crime (Count 26), and persecution as a crime against humanity (Count 31) by standing or

walking on the backs of detainees—who had been made to lie face down on the ground in the hot sun, some with their hands tied behind their backs and some blindfolded, for prolonged periods of time without access to food, water and sanitary facilities—hitting them with a stick or axe-like object, kicking them, and verbally abusing them (as described above at paragraphs 122 to 123).

148. **ABD-AL-RAHMAN** meant to engage in the conduct described above. **ABD-AL-RAHMAN** intended to bring about the objective elements of the charged crimes and/or was aware that these crimes would occur in the ordinary course of events as a result of his conduct.

Ordering under article 25(3)(b) of the Rome Statute

149. On or about 5 March 2004, **ABD-AL-RAHMAN**, while being in a position of authority, ordered members of the Militia/*Janjaweed* and/or the GoS Forces to shoot and kill detained Fur males (as described above at paragraph 130). One or more of these members carried out **ABD-AL-RAHMAN**'s orders, which led to the commission of the crimes of murder as a crime against humanity and a war crime (Counts 27-28), attempted murder as a crime against humanity and a war crime (Counts 29-30), and persecution as a crime against humanity (Count 31).

150. **ABD-AL-RAHMAN** meant to engage in the conduct described above and was aware of his position of authority over the physical perpetrators of the crimes. **ABD-AL-RAHMAN** meant for the Militia/*Janjaweed* and GoS Forces to commit the crimes and/or was aware that the Militia/*Janjaweed* and GoS Forces would, in the ordinary course of events, commit the crimes, and was aware that his actions would contribute to their commission.

Inducing under article 25(3)(b) of the Rome Statute

151. Through the conduct described above at paragraph 144, **ABD-AL-RAHMAN** induced the Militia/*Janjaweed* and GoS Forces to commit the crimes of torture as a crime against humanity and a war crime (Counts 22-23), other inhumane acts as a crime against humanity (Count 24), cruel treatment as a war crime (Count 25), outrages upon personal dignity as a war crime (Count 26), murder as a crime against humanity and a war crime (Counts 27-28), and persecution as a crime against humanity (Count 31), and the attempted commission of the crimes of murder as a crime against humanity and a war crime (Counts 29-30). **ABD-AL-RAHMAN** exerted influence over the Militia/*Janjaweed* and GoS Forces, prompting them to commit the relevant crimes.

152. **ABD-AL-RAHMAN** meant to engage in the conduct described above. **ABD-AL-RAHMAN** meant for the Militia/*Janjaweed* and GoS Forces to commit the crimes and/or was aware that the Militia/*Janjaweed* and GoS Forces would, in the ordinary course of events, commit the crimes, and was aware that his actions would contribute to their commission.

Aiding, abetting or otherwise assisting in the commission or attempted commission of crimes under article 25(3)(c) of the Rome Statute

153. Through the conduct described above at paragraph 144, **ABD-AL-RAHMAN** aided, abetted or otherwise assisted members of the Militia/*Janjaweed* and GoS Forces to commit the crimes of torture as a crime against humanity and a war crime (Counts 22-23), other inhumane acts as a crime against humanity (Count 24), cruel treatment as a war crime (Count 25), outrages upon personal dignity as a war crime (Count 26), murder as a crime against humanity and a war crime (Counts 27-28), and persecution as a crime against humanity (Count 31), and the attempted commission of the crimes of murder as a crime against humanity and a war crime (Counts 29-30).

154. **ABD-AL-RAHMAN** meant to engage in the conduct described above and provided this assistance for the purpose of facilitating the commission of the charged crimes. **ABD-AL-RAHMAN** was aware that members of the Militia/*Janjaweed* and GoS Forces would, in the ordinary course of events, commit the types of crimes charged, and was aware that his conduct would contribute to their commission.

Common purpose liability under article 25(3)(d) of the Rome Statute

155. Between about 5 and about 7 March 2004, **ABD-AL-RAHMAN** intentionally contributed to the commission and attempted commission of crimes by a group of persons acting with a common purpose. The common purpose was to target persons in Deleig, including persons displaced to Deleig from locations in the surrounding areas, perceived as belonging to, or being associated with, or supporting the rebel armed groups, including through the commission of the crimes of torture, other inhumane acts, cruel treatment, outrages upon personal dignity, murder, and persecution (“Deleig Common Purpose”).

156. The members of the group acting with the Deleig Common Purpose included Military Intelligence officer Lieutenant Hamdi Sharaf-Al-Din SID AHMAD, Military Intelligence officer Mussadiq Hassan MANSUR, and PDF officer Abd-Al-Rahman Dawud HAMMUDAH, also known as HASSABALLAH, and other members of the Militia/*Janjaweed* and GoS Forces.

157. Through the conduct described above at paragraph 144, **ABD-AL-RAHMAN** intentionally contributed to the commission of crimes of torture as a crime against humanity and a war crime (Counts 22-23), other inhumane acts as a crime against humanity (Count 24), cruel treatment as a war crime (Count 25), outrages upon personal dignity as a war crime (Count 26), murder as a crime against humanity and a war crime (Counts 27-28), and persecution as a crime against humanity (Count 31), and the attempted commission of the crimes of murder as a crime against humanity and a war crime (Counts 29-30), by this group of persons acting with a common purpose.

158. **ABD-AL-RAHMAN** made these contributions with the aim of furthering the criminal activity or criminal purpose of this group, and/or in the knowledge of the intention of the group to commit these crimes.

159. Based on the above, **ABD-AL-RAHMAN** is criminally responsible for:

COUNT 22: Torture as a crime against humanity, concerning between 100 and 200 Fur males in Deleig, between about 5 and about 7 March 2004, pursuant to article 7(1)(f) and article 25(3)(a) (direct perpetration and co-perpetration), and/or article 25(3)(b) (inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 23: Torture as a war crime, concerning between 100 and 200 Fur males in Deleig, between about 5 and about 7 March 2004, pursuant to article 8(2)(c)(i) and article 25(3)(a) (direct perpetration and co-perpetration), and/or article 25(3)(b) (inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 24: Other inhumane acts as a crime against humanity, concerning between 100 and 200 Fur males in Deleig, between about 5 and about 7 March 2004, pursuant to article 7(1)(k) and article 25(3)(a) (direct perpetration and co-perpetration), and/or article 25(3)(b) (inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 25: Cruel treatment as a war crime, concerning between 100 and 200 Fur males in Deleig, between about 5 and about 7 March 2004, pursuant to article 8(2)(c)(i) and article 25(3)(a) (direct perpetration and co-perpetration), and/or article 25(3)(b) (inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 26: Outrages upon personal dignity as a war crime, concerning between 100 and 200 Fur males in Deleig, between about 5 and about 7 March 2004, pursuant to article 8(2)(c)(ii) and article 25(3)(a) (direct perpetration and co-perpetration), and/or article 25(3)(b) (inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 27: Murder as a crime against humanity, concerning at least 100 Fur males, including the 34 persons listed in Annex 1D, in Deleig and surrounding areas, between about 5 and about 7 March 2004, pursuant to article 7(1)(a) and article 25(3)(a) (direct perpetration and co-perpetration), and/or article 25(3)(b) (ordering and/or inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 28: Murder as a war crime, concerning at least 100 Fur males, including the 34 persons listed in Annex 1D, in Deleig and surrounding areas, between about 5 and about 7 March 2004, pursuant to article 8(2)(c)(i) and article 25(3)(a) (direct perpetration and co-perpetration), and/or article 25(3)(b) (ordering and/or inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 29: Attempted murder as a crime against humanity, concerning at least twelve Fur males, [REDACTED] and six unidentified males, in Deleig and surrounding areas, between about 5 and about 7 March 2004, pursuant to article 7(1)(a) and articles 25(3)(f) and 25(3)(a) (co-perpetration), and/or articles 25(3)(f) and 25(3)(b) (ordering and/or inducing), and/or articles 25(3)(f) and 25(3)(c) (aiding, abetting or otherwise assisting), and/or articles 25(3)(f) and 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 30: Attempted murder as a war crime, concerning at least twelve Fur males, [REDACTED] and six unidentified males, in Deleig and surrounding areas, between about 5 and about 7 March 2004, pursuant to article 8(2)(c)(i) and articles 25(3)(f) and 25(3)(a) (co-perpetration), and/or articles 25(3)(f) and 25(3)(b) (ordering and/or inducing), and/or articles 25(3)(f) and 25(3)(c) (aiding, abetting or otherwise assisting), and/or articles 25(3)(f) and 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 31: Persecution as a crime against humanity, on political, ethnic and gender grounds, concerning Fur males perceived as belonging to, or being associated with, or supporting rebel armed groups in Deleig and surrounding areas, between about 5 and

about 7 March 2004, by means of torture, other inhumane acts, cruel treatment, outrages upon personal dignity, murder and/or attempted murder, pursuant to article 7(1)(h) and article 25(3)(a) (direct perpetration and co-perpetration), and/or article 25(3)(b) (ordering and/or inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d) (common purpose liability) of the Rome Statute.



Fatou Bensouda
Prosecutor

Dated this 22nd day of April 2021

At The Hague, The Netherlands