

Annex H

(Confidential)

Factual Allegations Against Saif Al-Islam Gaddafi:

Pre-Trial Chamber I, in its Decision on the admissibility of the case against Saif Al-Islam Gaddafi, ICC-01/11-01/11-344-Red, at paras 82 and 83 held:

"82. The Chamber notes that the events expressly mentioned in the Article 58 Decision do not represent unique manifestations of the form of criminality alleged against Mr. Gaddafi in the proceedings before the Court. They constitute rather samples of a course of conduct of the Security Forces, under Mr Gaddafi's control, that allegedly carried out an attack committed across Libya from 15 February 2011 onwards against the civilians who were dissidents or perceived dissidents to Gaddafi's regime, which resulted in an unspecified number of killings and acts of persecution.

83. Therefore, in the circumstances of the case at hand and bearing in mind the purpose of the complementarity principle, the Chamber considers that it would not be appropriate to expect Libya's investigation to cover exactly the same acts of murder and persecution mentioned in the Article 58 Decision as constituting instances of Mr. Gaddafi's alleged course of conduct. Instead, the Chamber will assess, on the basis of the evidence provided by Libya, whether the alleged domestic investigation addresses the same conduct underlying the Warrant of Arrest and Article 58 Decision, namely that: Mr. Gaddafi used his control over relevant parts of the Libyan State apparatus and Security Forces to deter and quell, by any means, including by the use of lethal force, the demonstrations of civilians, which started in February 2011 against Muammar Gaddafi's regime; in particular, that Mr. Gaddafi activated the Security Forces under his control to kill and persecute hundreds of civilian demonstrators or alleged dissidents to Muammar Gaddafi's regime, across Libya, in particular in Benghazi, Misrata, Tripoli and other neighbouring cities, from 15 February 2011 to at least 28 February 2011."

(I) OTP Article 58 Application, Warrant & Decision compared with (II) Libyan Proceedings

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The below chart in section (1) examines the similarity in the factual allegations in the ICC case against Saif Gaddafi, as set out in (i) the OTP Article 58 application of 16 May 2011 (column 1), the Chamber's Decision of 27 June 2011 on the Prosecutor's Article 58 Application, and the warrant of arrest of 27 June 2011 (column 2) as against (ii) the case brought by the Libyan prosecutor, contained in the Libyan Judgment (LBY-OTP-0062-0280). The Libyan Prosecutor's case is separated in the chart below according to (i) the indictment (pgs. 3-11) and (ii) witness testimony / testimony of accused individuals (pgs. 12-80) / facts (pgs. 80-146) and (iii) grounds of judgment (pgs. 146-344).

See A) and B) of below chart (1) regarding PTC I criteria: "*Mr Gaddafi used his control over relevant parts of the Libyan State apparatus and Security Forces [...]*"

See E) of below chart (1) regarding criteria: "*to deter and quell, by any means, including by the use of lethal force, the demonstrations of civilians, which started in February 2011 against Muammar Gaddafi's regime;*"

See C), D), E) and F) of below chart (1) regarding criteria: *"in particular, that Mr Gaddafi activated the Security Forces under his control to kill and persecute hundreds of civilian demonstrators or alleged dissidents to Muammar Gaddafi's regime, across Libya,"*

See K) of below chart (1) regarding criteria: *"in particular in Benghazi, Misrata, Tripoli and other neighbouring cities,"*

See L) of below chart (1) regarding criteria: *"from 15 February 2011 to at least 28 February 2011."* The Libyan case has potentially broader temporal jurisdiction than the ICC case, including charges relating to conduct extending beyond February 2011.

As for areas where the Libyan proceedings covered wider conduct than alleged in the ICC case See Chart (2) below. For instance, the Libyan case encompasses a broader array of allegations, including allegations regarding the use of sexual violence and narcotics and other elements.

Considering the significant overlap in the areas highlighted in Chart (1) below, and their significance with regards to the criteria outlined in PTC I's decision on admissibility in the case against Saif Gaddafi, the prosecution in Libya prosecuted 'substantially' the same case as the OTP case against Saif Gaddafi.

(1) Areas of Similarity between ICC and Libyan Case

No.	OTP Article 58 Application (ICC-01/11-4-Red)	Warrant of Arrest (ICC-01/11-14) & PTC I Decision on OTP's Article 58 Application (ICC-01/11-12)	Tripoli Court of Appeals, 28/7/2015 (LBY-OTP-0062-0280)
A) Saif Gaddafi's Level of Responsibility in relation to State Affairs			
1.	6. Over the recent years GADDAFI has authorized his second eldest son SAIF AL-ISLAM to act as de facto prime minister and, of crucial importance, to control the finances. [...]	<p><u>Warrant of Arrest:</u></p> <p>CONSIDERING that, in light of the Materials, there are reasonable grounds to believe that Saif Al-Islam Gaddafi, although not having an official position, is Muammar Gaddafi's unspoken successor and the most influential person within his inner circle and, as such, at all times relevant to the Prosecutor's Application, he exercised control over crucial parts of the State apparatus, including finances and logistics and had the powers of a de facto Prime Minister;</p> <p><u>PTC Decision:</u></p> <p>72. [...] The Chamber also finds reasonable grounds to believe that Saif Al-Islam Gaddafi, although not having an official position, is</p>	<p><u>Facts</u></p> <p>[...] When the testimony of 'Umar Sa'id Tantush was heard, [...] The witness added that he saw Defendant No. 1 at the Supreme Security Operations Room in Tripoli and that the latter was running the affairs of the State and was responsible for suppressing the Revolution. Pg. 0393 [...]</p> <p><u>Grounds of Judgment</u></p> <p>[...] The charge is proven against the accused based on the statements of Defendant No. 4, Mansur Daw Ibrahim, who said that the accused Sayf al-Islam used to attend the meetings of the Higher Security Committee and issue instructions to combat units. The charge is also proven against the accused based on the testimony of the witness Nasir al-Hassuni, who told the Public Prosecution that the accused Sayf al-Islam was responsible for managing all types of operations. The charge is also proven against the accused based on his confession before the Prosecution that he was monitoring the operations and giving instructions. The charge</p>

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		<p>Muammar Gaddafi's unspoken successor and the most influential person within his inner circle; as such, at all times relevant to the Prosecutor's Application, Saif Al-Islam Gaddafi exercised control over crucial parts of the State apparatus, including finances and logistics and had the powers of a de facto Prime Minister.</p> <p>73. The Materials provided by the Prosecutor also substantiate the finding of the Chamber that there are reasonable grounds to believe that the Libyan State apparatus of power—including political, administrative, military and security branches—consists of a complex set of units and individuals, all of which are ultimately subject to the orders and control of the leader of the country, Muammar Gaddafi. Muammar Gaddafi orchestrates the exercise of his powers with the support and collaboration of his inner circle, the most influential of whom is his son Saif Al-Islam Gaddafi, who enjoys a prominent position within the Libyan hierarchy. While Saif Al-Islam Gaddafi is subordinated only to Muammar Gaddafi, he also enjoys undisputed control over crucial parts of the State apparatus and has the power to trigger the State machinery and issue orders to all of Muammar Gaddafi's subordinates, as they are, at the same time all subordinated to him.</p> <p>75. [...] In the view of the Chamber, there are indeed reasonable grounds to believe that Muammar Gaddafi's and Saif Al-Islam Gaddafi's orders to any branch of the State apparatus automatically activated the State machinery leading to the compliance with such orders by</p>	<p>is also proven against the accused based on the testimony of the witness Abd al-Haq Abd al-Salam al-Sharif, who said that the accused was always present at the headquarters of Mohammed Magariaf Battalion, monitoring the operations in al-Brigah, the Western Mountains, Misratah and al-Zawiyah and giving instructions; he also used to tell the Battalion Commander "al-Barani, do as we tell you". Pg. 0431 [...]</p> <p>[...] It was an agreed-upon and undisclosed policy adopted by regime figures handling the war against the people within the Supreme Security Operations Room, where the accused Sayf al-Islam had the final say, as previously mentioned by the witnesses, who said that he was the one who issued instructions and commands to the commanders of the battalions and armed groups that invaded the Libyan cities such as Zuwarah, al-Zawiyah, Misratah and other cities where atrocities were committed, including rape. Pg. 0439 [...]</p> <p>[...] He also ordered that sea ports be besieged, incited rape in the besieged cities and approved such policy, ordered that civilian facilities be struck by military aircraft in addition to other crimes, all of which aimed to undermine national security, wreak havoc and exact revenge on the Libyan people who defected from the regime, which the accused thought would be delegated to him after his father since he told Defendant No. 4 "This seat is mine". Whereas the crimes committed by the accused irrevocably prove the danger he represents given his serious propensity for crime and his willingness to kill people in order to preserve what he thinks belongs to him. Pp. 0439-0440 [...]</p>

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		any replaceable direct perpetrator.	
<i>Saif Gaddafi's Control of Finances</i>			
2.	6. Over the recent years GADDAFI has authorized his second eldest son SAIF AL-ISLAM to act as de facto prime minister and, of crucial importance, to control the finances . [...]	<p><u>Warrant of Arrest:</u></p> <p>CONSIDERING that, in light of the Materials, there are reasonable grounds to believe that Saif Al-Islam Gaddafi, although not having an official position, is Muammar Gaddafi's unspoken successor and the most influential person within his inner circle and, as such, at all times relevant to the Prosecutor's Application, he exercised control over crucial parts of the State apparatus, including finances and logistics and had the powers of a de facto Prime Minister;</p> <p><u>PTC Decision:</u></p> <p>72. [...]The Chamber also finds reasonable grounds to believe that Saif Al-Islam Gaddafi, although not having an official position, is Muammar Gaddafi's unspoken successor and the most influential person within his inner circle; as such, at all times relevant to the Prosecutor's Application, Saif Al-Islam Gaddafi exercised control over crucial parts of the State apparatus, including finances and logistics and had the powers of a de facto Prime Minister.</p>	<p><u>Facts</u></p> <p>[...] Upon investigation, Defendant No. 3 (al-Baghdadi Ali al-Mahmudi) said that on 19/2/2011 AD he received the minutes of the meeting held at the office of Defendant No. 7 (Muhammad al-Zwai) on 16/2/2011 AD in order to take the relevant executive procedures and he referred it immediately to the General Secretariat for Public Security for execution. [...]He added that Defendant No. 1 came to his office and requested the disbursement of sufficient liquidity to security and military services. In response, he tasked Uthman al-Da'iki with receiving an amount of 50 million LYD in petty cash, a part of which was delivered to the Chief Accountant of the 32nd Reinforced Brigade led by (Khamis Gaddafi). Defendant No. 1 intervened to disburse this amount immediately to his brother, called the latter in his presence and told him the following (Send your people to receive what is needed). Defendant No. 4 also received part of that amount and admitted that in execution of Muammar Gaddafi's instructions, he disbursed local and hard currency funds to many persons and parties in return for a receipt from the recipient or by informing the Secretariat of Finance that the amount was received by the recipient. Pg. 0361 [...]</p> <p>[...] When the testimony of Muhammad Jum'a Sa'd, an employee at Gaddafi's Office, was heard, he said that he started working in Gaddafi's Office, that during the Revolution Muhammad Bashir was responsible for security and military formations and that Defendant No. 3 was channeling funds to Muhammad Bashir. He also said that Defendants Nos. 1 and 2 used to instruct Muhammad Bashir Sa'd to disburse the funds. Pg 0402 [...]</p> <p><u>Grounds of Judgment</u></p> <p>Whereas the Court concluded, upon inspection of other case</p>

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			<p>records, that the charge of sabotage and arbitrary killing with intent to undermine national security brought against the accused Sayf al-Islam Muammar Gaddafi, since he provided financial support to Gaddafi's battalions that killed the Libyan people, is established against the accused. [LBY-OTP-0062-0280 at 0427 (Pg 146)]</p> <p>[...]Whereas the charge of sabotage and arbitrary killing was brought against Defendant No. 3, al-Baghdadi Ali al-Mahmudi, since he provided financial support to the armed and tribal groups that were suppressing the Libyan people. This charge is proven against the accused based on his explicit confession that he held a meeting at his office with the leaders of security services, whereby they agreed to set a plan and mechanism to counter the protests, and that his role was restricted to providing logistic support to execute these instructions. He also confessed that he delivered funds to the 32nd Reinforced Brigade at the request of Defendant No. 1 and he delivered funds to Defendant No. 4 as well as funds amounting to 100 million LYD to Muhammad Bashir and 10 million LYD to the Head of the Higher Joint Security Operations Room, al-Hadi Ambirish. Pg. 0470 [...]</p>
B) Saif Gaddafi's involvement with Planning Repression of Protests			
3.	9. During the days preceding the uprising, GADDAFI met regularly with ALSENUSSI and SAIF AL-ISLAM to plan the repression of the protest [...]	<p><u>PTC Decision:</u></p> <p>76. The Chamber also finds that the evidence submitted by the Prosecutor provides reasonable grounds to believe that the scale of the concerted actions by Muammar Gaddafi and his son Saif Al-Islam Gaddafi leads to the inference that Muammar Gaddafi in coordination with his inner circle, including Saif Al-Islam Gaddafi, conceived and orchestrated a plan to deter and quell, by all means, the civilian demonstrations against the regime which began in Libya soon after the events in Tunisia and Egypt which led to the departure of their Presidents in the early months of 2011.</p>	<p><u>The Indictment</u></p> <p>Defendants Nos. 1, 2, 3, 4, 5, 6 and 7 held many meetings during which they decided to kill protesters in Tripoli, prevent them by all means from accessing what was formerly known as Green Square and form and equip armed groups in order to attack cities rebelling against the regime. Pg. 0285.</p> <p><u>Facts</u></p> <p>[...] With regards to killing the protesters, he said that he financially supported these operations at the instruction of Defendant No. 1. Pg 0366 [...]</p> <p>[...]When Defendant No. 1, Sayf al-Islam Muammar Gaddafi, was</p>

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		<p>77. The Chamber finds reasonable grounds to believe that the abovementioned plan was effected through the use and control of various communication media, the monitoring of emails, the sending of SMS messages and the issuing of public speeches intended to disrupt demonstrations, threaten possible dissidents and incite the population to act against those perceived to be dissidents. The implementation of the plan also included the blocking of various internet and international television channels, in order to prevent the population from accessing any source of information not emanating from the official State channels. As discussed in paragraph 30 above, a cover-up campaign was also implemented in order to conceal the commission of crimes by the Libyan State apparatus, notably through the removal of bodies and other traces of the events from the streets, the surveillance of hospitals to remove data and bodies, and the arrests and manipulation of international journalists to prevent open and free reporting of the events as they occurred.</p>	<p>re-interrogated, he confessed that peaceful anti-regime protests were held in Tajura, al-Jum'ah Suq, Benghazi and al-Bayda' and were countered by an armed group of regime supporters that killed two persons in front of a mosque in Tajura. He confessed that he called the accused Mundhir al-Ghanimi and asked him to control security. He confessed that he used to contact officials to get updates about the battles, incited the arming of the youth and armed Abu Salim's youth who were in front of Bab al-'Aziziya. He admitted that many corpses were strewn in front of Bab al-'Aziziya. He also admitted that he met with young tribal members in order to provide moral support and sow dissension among the people so that they would fight each other and he would in turn consolidate his rule. He confessed that he contacted the officials and front leaders such as Ali al-Zubaydi, Taurgha's Commander of Operations, al-Baghdadi al-Mahmudi, Abdullah al-Senussi and Mansur Daw. Pp. 0382-0383 [...]</p> <p>[...] When Defendant No. 1, Sayf al-Islam Muammar Gaddafi, was re-interrogated, [...] He also met Colonel Ali al-Zubaydi, al-Zawwam al-Saklul and others and incited them to go out on Green Square in order to suppress the protests. A force commanded by Colonel Bil'id was established to that end and provided with (14.5") machine-gun-mounted vehicles. The force opened fire on the protesters for two hours. Pp. 0381-0382 [...]</p> <p>[...] When the testimony of 'Umar Sa'id Tantush was heard, he said that he was the Coordinator of the People's Leadership in Wirshfanah and was entrusted on 18/6/2011 AD with managing al-Radi' fighter brigade, which was dispatched to Bi'r al-Ghanam and al-Qawalish. The legion was fighting the rebels in the Western Mountains and receiving instructions from the Supreme Security Operations Room in Tripoli as well as weapons and ammunition. The witness added that he saw Defendant No. 1 at the Supreme Security Operations Room in Tripoli and that the latter was running the affairs of the State and was responsible for suppressing the Revolution. Pg. 0393 [...]</p>

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			<p>[...] When the testimony of Khalid Abd al-Haq al-Sharif, the Mohammed Magariaf Battalion Commander Office Director, was heard, he said that when the 17 February Revolution broke out and on the day news spread about Muammar Gaddafi's escape to Venezuela, a meeting was held at the Battalion Commander's office between Defendants Nos. 1, 3, 4 and 5 and other security leaders, during which Sayf al-Islam incited the use of force to suppress the protests. The legions' commanders in the battalion were instructed to go out to Green Square in order to suppress the protests. (14.5") machine-gun-mounted vehicles were readied and shortly after the force left the battalion's headquarters, gunshots were heard for two hours. The witness added that on 25/2/2011 AD after Friday prayer, Defendant No. 1 was monitoring the situation on the street by communicating with mobile patrols via wireless devices. Pp. 0394-0395 [...]</p> <p>[...] When the testimony of Abd al-Jawad al-Badri, a Brigadier and Commander of Al-Fadil Bu 'Umar Battalion, was heard, he said that the protests broke out in Benghazi. Therefore, hundreds or even thousands of members of the Revolutionary Committees, the People's Guard and Tariq and Faris Security Battalions were mobilized to suppress these protests. The witness also said that Defendant No. 1 would call him and instruct him to dispatch the battalion on the street in order to suppress the protesters and use live fire against them. Defendant No. 2 also asked him the same; however, the witness avoided the execution of these instructions on the grounds that Abd al-Fattah Yunus instructed otherwise. Therefore, he was insulted by Defendant No. 1 and alienated by the second, who brought revolutionaries, mercenaries and security formations in order to suppress the protesters and dealt with Qadhadhfa officers. Pg. 0400 [...]</p> <p>[...] When the testimony of Nuri Ali Abdullah 'Azuz, the Director of the Islamic Da'wa Organization's Office in Tanzania, was heard, he said that suspicious money transfers were made by the Islamic Da'wa Organization during the 17 February Revolution to many persons, including Muhammad al-Bashari, as well as a</p>

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			<p>transfer to Dubai and another to Indonesia. When the statements of Defendant No. 4, Mansur Daw Ibrahim, were reheard, he said that he armed all the male and female Libyans who showed up with light weapons (AK-47 with two magazines) in order to prevent the protesters from accessing Green Square under threat of weapons. He added that Sayf al-Islam was adamant to end the Revolution by any means even by force and used to say "This is my seat, not yours". Pg. 0410 [...]</p> <p>[...] When the statements of Isma'il al-Karami were reheard, he said that he was against the use of violence against the Libyan people and that when he knew that people were killed in Benghazi, he called Defendant No. 1 Sayf al-Islam Gaddafi and asked him to intervene and stop it, so Sayf al-Islam Gaddafi answered him "Now it's only up to you and your weapons" and hung up on him. Pg. 0411 [...]</p> <p>[...] When Defendant No. 1, Sayf al-Islam Gaddafi, was re-interrogated, he confessed that [...] He admitted as well that he was present at the headquarters of Mohammed Magariaf Battalion until May 2011 AD and was monitoring the situation and issuing instructions. He met the third, fourth and fifth accused and incited them to suppress the protests. He also met the Company Commanders of Mohammed Magariaf Battalion and asked them to go out on Green Square in order to suppress the protests. Pg. 0412 [...]</p> <p>[...] When Defendant No. 3 was reinterrogated, [...] As for killing the protesters, he said that he provided financial support to security agencies at the request of Defendant No. 1. Pg. 0414 [...]</p> <p>[...] When Defendant No. 4, Mansur Daw Ibrahim, was re-interrogated, he said [...] The members of the External Security Agency were known to drive (Tundra) cars. He added that Defendant No. 2 used to summon all security officials to meetings after receiving information and discussing them with Defendant No. 1. Pg. 0418 [...]</p>

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			<p style="text-align: center;"><u><i>Grounds of Judgement</i></u></p> <p>Whereas the Court concluded, upon inspection of other case records, that the charge of sabotage and arbitrary killing with intent to undermine national security brought against the accused Sayf al-Islam Muammar Gaddafi, since he provided financial support to Gaddafi's battalions that killed the Libyan people, is established against the accused. [LBY-OTP-0062-0280 at 0427 (Pg. 146)]</p> <p>[...]Whereas regarding the penalty, the accused committed a large number of serious crimes, since he ordered and incited the killing of the protesters Pg. 0439 [...]</p> <p>[...] 4. On the charge of murder of protesters in Tripoli that is attributed to Defendant No. 4 Mansur Daw Ibrahim, the charge is proven against the Defendant based on the statement given by Defendant No. 3 before the Public Prosecution. According to said statement, when protests started in 17/02/2011, several meetings were convened by Defendant No. 1 and attended by the directors of security services, including the Defendant Mansur Daw. It was agreed to suppress the protests and prevent the protesters from reaching the public squares by all possible means, which implies shooting at the protesters to suppress the protests. He added that Mansur Daw Ibrahim insisted on confronting the protests and said word for word "Let us show them who is in control". Pg. 0481 [...]</p> <p>[...] On the charge of holding meetings to agree on cracking down on protesters, the Defendant is proved guilty based on the statements of Defendant No. 3 who stated before the Public Prosecution that several meetings were convened by Defendant No. 1 and attended by many of the Defendant persons, including Defendant No. 4 Mansur Daw. In those meetings, ways to confront the protests, control Green Square, and prevent protesters from reaching the square by all means were agreed upon, which implies the use of firearms against them, as Defendant No. 4 insisted on</p>

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			suppressing the protests. Whereas these meetings and the instructions resulting therefrom to deploy the armed members of the People's Guard, the revolutionary committees, and the security battalions and services caused the death of many protesters who had taken to the streets to express their opinion and demand good governance; Pp. 0487-0488 [...]
C) Saif Gaddafi's involvement in Recruitment of Mercenaries			
4.	10. SAIF AL-ISLAM took an active role in the recruitment of foreign mercenaries , who were placed under the command of various structures within the Security Forces, and the provision of resources for the Security Forces. [...]	<p><u>PTC Decision:</u></p> <p>80. Saif Al-Islam Gaddafi's contributions amounted to, inter alia: (i) support of and contribution to the design of the plan; (ii) use of his powers and authority to ensure the implementation of the plan; (iii) ordering the recruitment of mercenaries and the mobilization of militias and troops; [...] (v) providing resources to Security Forces; [...]</p>	<p><u>The Indictment</u></p> <p>Defendants Nos. 1, 2, 3, 4, 5, 8, 17, 20, 31 and 33 enlisted and equipped mercenaries and granted some of them Libyan citizenship. Pg. 0284.</p> <p><u>Facts</u></p> <p>[...] The accused also confessed that he instructed Defendant No. 18 to disburse 200,000 LYD to Abd al-Salam Ihmida and 30,000 LYD to Abd al-Salam Hassan based on the instructions of Defendant No. 1 to accomplish a "dirty" mission in Benghazi. He added that Defendant No. 1 asked him to disburse an amount of money to Muammar Farakash in order to accomplish a "dirty" mission in al-Bayda'. Pg. 0363 [...]</p> <p>[...] With regards to bringing in mercenaries, the accused confessed that he met Khalil Ibrahim, the leader of the Sudanese Justice and Equality Movement, and agreed with him to bring part of his forces to fight alongside Gaddafi's battalions. He paid him 3 million USD and the forces came and gathered in al-Asabia; part of them entered Misratah's front and many members were injured. He paid them amounts of money to cover treatment costs. A 400-strong armed group affiliated with (Manawi) participated in the fighting on Misratah's front and he paid them 3 million LYD based on the instructions of Muammar Gaddafi and his son Sayf. He confessed that the meeting with Khalil Ibrahim was held in his office in the presence of Defendant No. 4 Mansur Daw. Pg. 0366 [...]</p>

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			<p>[...] When Defendant No. 1, Sayf al-Islam Muammar Gaddafi, was re-interrogated, [...] As for the mercenaries, the witness said that they were recruited from the migrant workers inside Libya and then brought by Khalil Ibrahim, who met with Defendant No. 1 at al-Mahari Hotel and agreed with him to bring the mercenaries. Pp. 0382-0383[...]</p> <p>[...] When the testimony of Abd al-Salam Muhammad al-Shubiniyya was heard, he said that he knows Defendant No. 1 and met him in Bani Walid since he was responsible for the fuel and that Defendant No. 1 invited him to a meeting with fighting formations, leaders and volunteers. Pg. 0392 [...]</p> <p>[...] When Defendant No. 2 was re-interrogated and confronted with the evidence of the case, he said that [...] He added that Defendant No. 1 was monitoring the recruitment of mercenaries. Pg. 0410 [...]</p> <p>[...] When Defendant No. 1, Sayf al-Islam Gaddafi, was re-interrogated, he confessed that [...] He admitted that the funds were disbursed based on his instructions and those of Abdullah al-Senussi and that he made disbursements to the mercenaries that he brought via Khalil Ibrahim. He confessed that he was monitoring the battles (and had the final say) and that he armed people in Abu Salim and incited them to fight. He also confessed that he took up arms in Bani Walid and incited the killing of whoever opposed his father's regime. Pg. 0412 [...]</p> <p style="text-align: center;"><u>Grounds of Judgment</u></p> <p>[...] Whereas the testimonies of the witnesses and the confessions of the accused prove that he was involved in funding soldiers, security services and mercenaries and bringing in weapons, ammunition, vehicles and other military equipment in order to suppress the Libyan people rebelling against his father's regime, which he thought would be delegated to him; therefore, he believed</p>

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			<p>that he might not have the chance to rule the country because of the uprising. Whereas the accused knew that providing financial support to the armed groups and African mercenaries allows these forces to pursue their brutal war against the Libyans, which happened in fact, as many cities were ruined and people were killed because of these forces that were supplied with funds and ammunition by the accused. Therefore, this charge is proven against the accused with all its evidence and elements. Pg. 0428 [...]</p> <p>Whereas the charge of sabotage and arbitrary killing was brought against Defendant No. 1, since he brought in and equipped mercenaries to fight the Libyan people. This charge is proven against the accused based on the statements of Defendant No. 4 (Mansur Daw Ibrahim), who told the Public Prosecution that the accused Sayf al-Islam and Abdullah al-Senussi supervised the Africans whom he brought from the Zaghawa, al-Qar'an and al-Mahamid tribes and held meetings with Khalil Ibrahim, the leader of the Sudanese Justice and Equality Movement and he personally attended part of these meetings at the the Rixos Hotel, which aimed to equip Khalil Ibrahim's forces and distribute them to the battle fronts in Misratah and the Western Mountains. The charge is also proven against the accused based on the confession of Defendant No. 2, who told the Public Prosecution that Sayf al-Islam was monitoring the recruitment of mercenaries. The charge is proven against the accused based on the testimony of al-Hadi Ambirish, who told the Public Prosecution that Sayf al-Islam met more than once with Khalil Ibrahim at al-Mahari Hotel in Tripoli for coordination purposes to bring in mercenaries and that large numbers of mercenaries were indeed recruited and fought at the Western Mountains while the Room was arming them. The charge is proven against the accused based on his confession that he disbursed funds on the mercenaries brought by Khalil Ibrahim, Muna Mannawi and Abd al-Wahid Nur. Whereas all the above-mentioned evidence prove that Defendant No. 1 brought in, equipped and armed African mercenaries and dispatched them to</p>

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			<p>the battle fronts in Misratah and the Western Mountains in order to fight the Libyan people opposing his father's regime. Whereas the accused knows given his education and political status that hiring mercenaries to fight the people is not only an unpatriotic act but also a criminal one under the law and that these mercenaries, who are professional at killing, would kill Libyans. Whereas it was indisputably established by the aforementioned testimonies that the mercenaries entered the battle fronts in Misratah and the Western Mountains and fought the residents of these areas, committing widespread killings and wreaking havoc. Therefore, this charge is proven against the accused with all its evidence and elements. Pp. 0428-0429 [...]</p> <p>[...] Whereas regarding the penalty, the accused committed a large number of serious crimes, since he ordered and incited the killing of the protesters, mobilized armed groups to that end and supplied them with weapons, provided financial and material support to the armed groups that were fighting the people, brought African mercenaries to fight his compatriots, ordered that cities be besieged and arbitrarily bombed with heavy weapons and incited tribal dissension. Pg. 0439 [...]</p> <p>[...] On the charge of sabotage and arbitrary killings attributed to Defendant No. 4 for recruiting and equipping mercenaries, the charge is proven against the Defendant based on the statement of Defendant No. 6 Milad Daman, who stated before the Public Prosecution that a meeting was held in al-Mahari Hotel in May 2011 between Defendant No. 1, Defendant No. 2, Defendant No. 4, and the leader of Darfur's Justice and Equality Movement (JEM), Khalil Ibrahim. Pp. 0485-0486 [...]</p>
D)Provision of Resources / Weapons for Fighters			
5.	3. [...] as of 15 February 2011, GADDAFI, SAIF AL-ISLAM and AL-SENUSSI committed the crimes against humanity of murder under	<p><u>PTC Decision:</u></p> <p>(vii) also on 20 February 2011, as well, on the way to Bab al-Azizya, in Al Syahya, Gergaresh</p>	<p><u>The Indictment</u></p> <p>Defendants Nos. 1, 2, 3, 4, 7, 8, 9, 18, 19, 22 and 32 established armed tribal groups, equipped them with various weapons and</p>

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	<p>Article 7(1)(a) and persecution under Article 7(1)(h) of the Statute.</p> <p>10. SAIF AL-ISLAM took an active role in the recruitment of foreign mercenaries, who were placed under the command of various structures within the Security Forces, and the provision of resources for the Security Forces. [...]</p> <p>NOTE:</p> <p>2. [...] The incidents described in this Application refer to crimes against humanity committed against civilians and do not include war crimes committed during the armed conflict that started at the end of February.</p>	<p>road. Security Forces drove four vehicles into a crowd of civilian protesters and shot at them at close range causing the deaths of approximately 270 people; [...]</p> <p>(xii) on the same day, in Maydan al-Jaza'ir Square, the Security Forces fired teargas and bullets from several land cruiser vehicles into a crowd of civilians who were coming out of a mosque; the civilians who, witnessing this scene from their windows and balconies, reacted by shouting that the Security Forces were murderers, were, also shot; it is also reported that the Security Forces hid in ambulances and killed those who sought assistances; during this event, at least 10 people were killed;</p> <p>80. Saif Al-Islam Gaddafi's contributions amounted to, inter alia: (i) support of and contribution to the design of the plan; (ii) use of his powers and authority to ensure the implementation of the plan; (iii) ordering the recruitment of mercenaries and the mobilization of militias and troops; [...] (v) providing resources to Security Forces; [...]</p>	<p>materials and provided them with logistic support.</p> <p>Defendants Nos. 1, 2, 13, 15, 24, 25, 26, 27, 28 and 29 rigged a number of vehicles with explosives in order to detonate them remotely.</p> <p>Defendants Nos. 1, 2 and 16 devised a plan to blow up prisons containing a number of opposition members and prepared the materials necessary for execution.</p> <p>Defendants Nos. 1, 2 and 16 used fighter aircraft to bomb civilian targets and drop internationally-prohibited mines. Pg. 0284.</p> <p>Defendants Nos. 1, 2, 3, 4, 5, 7, 8, 9, 11, 17, 18, 22, 30, 31, 32: Committed acts aiming to ignite a civil war in the country, fragment national unity and sow dissension among Libyan citizens. Defendants Nos. 1, 2, 3, 4, 5, 7, 8, 9, 18, 22, 30 and 32 formed armed tribal groups and provided them with various weapons and logistic support, as well as salaries, grants, benefits and rewards in order to attack and kill the members of neighboring and distant tribes and regions rebelling against the regime. Pg. 0286.</p> <p style="text-align: center;"><u>Facts</u></p> <p>[...] Upon investigation, Defendant No. 3 (al-Baghdadi Ali al-Mahmudi) said that on 19/2/2011 AD he received the minutes of the meeting held at the office of Defendant No. 7 (Muhammad al-Zwai) on 16/2/2011 AD in order to take the relevant executive procedures and he referred it immediately to the General Secretariat for Public Security for execution. [...] He added that Defendant No. 1 came to his office and requested the disbursement of sufficient liquidity to security and military services. In response, he tasked Uthman al-Da'iki with receiving an amount of 50 million LYD in petty cash, a part of which was delivered to the Chief Accountant of the 32nd Reinforced Brigade led by (Khamis Gaddafi). Defendant No. 1 intervened to disburse this amount</p>

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			<p>immediately to his brother, called the latter in his presence and told him the following (Send your people to receive what is needed). Defendant No. 4 also received part of that amount and admitted that in execution of Muammar Gaddafi's instructions, he disbursed local and hard currency funds to many persons and parties in return for a receipt from the recipient or by informing the Secretariat of Finance that the amount was received by the recipient. Pg. 0361 [...]</p> <p>[...] When the Public Prosecution asked the accused about the meeting that was held on 25/4/2011 AD between him, Defendant No. 5 Abu Zayd Dorda, Defendant No. 10 Mundhir Ramadan and other security leaders, he confessed that the meeting did take place at the request of Defendant No. 1, Sayf Gaddafi, and that Defendant No. 5 talked during the meeting about the External Security members who resumed work after being placed on the retired list. Defendant No. 10 also said that he had police members who incited fighting in Misratah's Tripoli St. and that anti-riot vehicles were used to enter al-Zawiyah. Pg. 0362 [...]</p> <p>[...] He confessed that Muammar Gaddafi requested that he, Mansur Daw and others set up a plan to blow up the prisons containing rebels and attribute that act to NATO aircraft. He admitted that he held a meeting at the Rixos Hotel with the fourth and sixth accused and a person called Shu'ayb al-Farjani, who informed him that he had prepared the air bombs and vehicles, and added that Defendant No. 1 wanted to execute that plan. Pg. 0365 [...]</p> <p>[...] The accused also said that the tribal method was adopted following the 17 February Revolution and that Defendant No. 1 was involved in it as tribal grudges were revived and tribes were armed to fight other tribes. Defendant No. 1 also armed groups from Abu Salim with around 4000 rifles, along with Defendant No. 4. Moreover, Defendant No. 1 supported groups that were operating in the eastern region. Defendant No. 2 confessed that</p>

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			<p>Defendant No. 1 called him and asked him to provide a technician with wide expertise in rigging vehicles with explosives and blowing them up, so he instructed Defendant No. 15 to look for a technician for that purpose and found out later on that a vehicle was blown up in Benghazi. He also admitted that the bombs that were supposed to blow up the prisons were prepared in the Mitiga Base Pg. 0365 [...]</p> <p>[...] When investigating Defendant No. 4, Mansur Daw Ibrahim Mansur, he said that on 17/2/2011 AD, he was examining the situation in Benghazi with Defendant No. 2, who gave orders to open fire on the protesters at al-Sakabili and Sidi Husayn. He confessed that he agreed with Defendants Nos. 1 and 2 to distribute weapons from 17 to 19/8/2011 AD to the youth of Abu Salim, al-Hadabah and the Airport Road, who came to Bab al-'Aziziya in the form of groups. He also said that Defendant No. 1 was inciting the youth to fight the group that defected from the regime. Pg. 0367 [...]</p> <p>The accused confessed that he trained and armed a group of Africans and that the Central Room was directing them to the battle fronts under the supervision of Defendants Nos. 1 and 2. Pg. 0367.</p> <p>[...] When investigating Defendant No. 13, Radwan al-Hadi al-Hamali, he said that he was assigned by Defendant No. 1 to manage the weapons' storehouse of the Internal Security Agency and confessed that he delivered 500 rifles and 60 rounds per rifle at the request of Defendant No. 5. [...] He confessed as well that he delivered large quantities of weapons and ammunition to persons whose names were listed by figures close to the regime, including the brother of Defendant No. 2, Muhammad al-Senussi, who was working with Defendant No. 1. [...] When investigating Defendant No. 13, Radwan al-Hadi al-Hamali, he said that he was assigned by Defendant No. 1 to manage the weapons' storehouse of the Internal Security Agency and confessed that he delivered 500 rifles and 60 rounds</p>

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			<p>per rifle at the request of Defendant No. 5. Pg. 0372.</p> <p>[...] When Defendant No. 1, Sayf al-Islam Muammar Gaddafi, was re-interrogated, [...] He confessed that funds were disbursed to the mercenaries brought by Khalil Ibrahim, the leader of the Sudanese Justice and Equality Movement, Hassan Mannawi and Abd al-Wahid Nur. He confessed that he incited the killing of opponents of his father's regime and was monitoring the battles; he was one of the movers and shakers. He also confessed that he armed the people in Abu Salim, incited them to fight, brought out weapons in Bani Walid and welded them to vehicles. He noted that his supporters brought three wounded and wanted to kill them before his eyes; however, he asked them to move the wounded to another place. He added that the second and fourth accused were with him when he armed the people and incited them to kill the protesters. He also confessed that he equipped, booby-trapped and sent vehicles to Benghazi and one of them was blown up. He confessed that he used to issue instructions to the cells that were operating inside the eastern cities, provide them with financial support and smuggle weapons to them through Egypt and the desert. He added that he was planning to control the oil; however, Misratah's front depleted his force. He confessed that Defendant No. 2 was planning all these actions with him and that he sent the African al-Tabu tribesmen to fight the rebels in Misratah. He also confessed that on the day news spread about his father's escape to Venezuela, he was monitoring the situation and issuing instructions and he met the second, third, fourth and fifth accused and incited them to suppress the protests. Pg. 0381 [...]</p> <p>[...] The witness added that Defendant No. 1 was mobilizing the internal front and providing financial and human support in collaboration with the second, third, fourth and fifth accused. Pg. 0389. [...]</p> <p>[...] When the testimony of Kamal Abd al-Qassim Ramadan al-Kikli, he said that he heard Defendant No. 1 in Abu Salim saying "Follow me to Bab al-</p>

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			<p>'Aziziya because [illegible]" while the others were chanting slogans around him, then he came back another time in his car and his driver brought out an AK-47 ammo box that was distributed to the volunteers. When the testimony of 'Azzam Abdullah Sasi was heard, he said that he was a soldier who was appointed as a guard at the entrance of Bab al-'Aziziya and on 17 and 18 Ramadan following the Afternoon Prayer, he saw Defendant No. 1 leave Bab al-'Aziziya in a white car, then get out of the car and address the people "These are rats just like al-Qaeda. You should defend your land because they are coming to rape your daughters and sisters and you should not fear them". Then a [illegible] car loaded with weapons and ammo boxes arrived and they started to arm people. The witness added that he saw the corpses of many victims strewn across the island. Pg. 0389 [...]</p> <p>[...] When the testimony of Nasir Miftah al-Hassuni was heard, [...] The witness added that he knows Defendant No. 1 and their relationship had developed since 2006 AD and Defendant No. 1 called him and said "Get ready for confrontation, form a Room in the Battalion and defend yourselves. We issued instructions to distribute weapons". Defendant No. 1 also told him that he sent two airplanes from the Maghawir Brigade to al-Bayda'. The witness said as well that Defendant No. 1 was responsible for managing all kinds of operations and issuing military orders. Defendant No. 1 also gave (Muhammad Isma'il) hundreds of thousands of LYD in order to attract the youth and incite tribes against each other so as to sow division and spark civil war. Pg. 0390 [...]</p> <p>[...] When the testimony of Muhammad Jum'a Sa'd, an employee at Gaddafi's Office, was heard, he said that the accused Sayf al-Islam and Abdullah al-Senussi used to instruct (Muhammad Bashir Sa'd) to disburse and deliver funds to persons who smuggle weapons and vehicles into Libya to use them in suppressing the Revolution. Among those are people who received funds based on the instructions of Sayf al-Islam (Abd al-Rahim al-Farjani, Hamid</p>

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			<p>Abd al-Salam and Abd al-Rahim al-Sa'idi) in order to introduce desert vehicles, bullet-proof vests, weapons and ammunition to Libya. Pg. 0411 [...]</p> <p>[...] When Defendant No. 4, Mansur Daw Ibrahim, was re-interrogated and confronted with the testimony of Hamid al-'Azumi, who said that he was with Abdullah al-Senussi in an armored vehicle on 17/2/2011 AD checking the situation in Benghazi's streets and their vehicle stopped at Geliana Bridge, he confirmed the witness' testimony and asserted that Defendant No. 2 Abdullah al-Senussi and his son Muhammad were the ones who ordered the shootings against the protesters.</p> <p>- He also confessed that he agreed with Defendants Nos. 1 and 2 to distribute weapons from Mohammed Magariaf Battalion's storehouse from 17/8/2011 AD to 19/8/2011 AD to the youth who came to Bab al-'Aziziya from Abu Salim, al-Hadabah and the Airport Road. He also said that Defendant No. 1 was inciting these groups to fight the defectors and they all agreed on that incitement.</p> <p>[...] Regarding the Africans whom he trained and provided with weapons, he said that Sayf al-Islam Gaddafi and Abdullah al-Senussi were supervising these Africans in terms of training and equipment. Pp. 0413-0414. [...]</p> <p style="text-align: center;"><u>Grounds of Judgment</u></p> <p>[...] The charge is also proven against the accused based on the testimony of Major General al-Hadi Ambirish, who said in his testimony before the Public Prosecution that Defendant No. 1 Sayf al-Islam provided financial support via his assistants to the Intelligence Services and security forces in addition to military supplies. The charge is also proven against the accused based on the testimony of Muhammad Jum'a Sa'd, who said that Defendants Nos. 1 and 2 used to instruct Muhammad Bashir Sa'd to disburse funds to people who smuggled weapons and vehicles into Libya to suppress the Revolution. He also said that Abd al-Rahim al-Farjani and Ahmad Abd al-Salam received funds from Muhammad Bashir Sa'd based on the instructions of the accused</p>

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			<p>Sayf al-Islam to bring vehicles, bulletproof vests, night vision binoculars, weapons and ammunition. The charge is proven against the accused based on his confession that he was responsible for the funds referred by Defendant No. 3 to an account at the Central Bank of Libya used by Muhammad Bashir Sa'd to withdraw money and that he disbursed those funds to the African mercenaries. Pg. 0427. [...]</p> <p>[...] The charge is also proven against the accused based on the testimony of the citizen Kamal Abu al-Qassim al-Kikli, who told the Public Prosecution that he saw and heard the accused Sayf al-Islam in Abu Salim say "Follow me to Bab al-'Aziziya because I'm counting on you" while Abu Salim's residents were cheering around him. Then he returned another time and his driver unloaded an AK-47 ammo box and distributed its contents to the volunteers. Pp. 0429-0430 [...]</p> <p>[...]Whereas regarding the penalty, the accused committed a large number of serious crimes, since he ordered and incited the killing of the protesters, mobilized armed groups to that end and supplied them with weapons, provided financial and material support to the armed groups that were fighting the people, Pg. 0439 [...]</p>
E)Allegations regarding the Suppression of Demonstrators			
6.	<p>11. On 17 February, mass demonstrations commenced in Benghazi, Tripoli and other cities of Libya calling for the end of GADDAFI's regime. Thousands of demonstrators marched through the streets of the city center of Benghazi.</p> <p>12. GADDAFI's plan expressly included the use of lethal force against demonstrators and alleged dissidents. In the early days of the demonstrations, GADDAFI</p>	<p><u>Warrant of Arrest:</u></p> <p>CONSIDERING that the Chamber finds that there are reasonable grounds to believe that, following the events in Tunisia and Egypt which led to the departure of their respective Presidents in the early months of 2011, a State policy was designed at the highest level of the Libyan State machinery and aimed at detering and quelling, by any means, including by the use of lethal force, the demonstrations of civilians against the regime of Muammar Mohammed Abu Minyar Gaddafi</p>	<p><u>Testimony of accused individuals</u></p> <p>[...]With regards to repressing protesters in Tripoli, the attorney said that this charge is groundless because witness Khalid Abd al-Haq al-Sharif said that Defendant No. 1 Sayf al-Islam Muammar Gaddafi, on the day news spread about Muammar Gaddafi's escape to Venezuela, met a number of officials excluding Abdullah al-Senussi at the Office of the Mohammed Magariaf Battalion Commander, al-Barani Ashkal, and was inciting the use of weapons to suppress protests. Defendant No. 1 also met the Battalion's Commander of Legions and asked him to head out to Green Square in order to suppress the protests. Therefore, Defendant No. 2 had nothing to do in the matter, especially since</p>

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	<p>transmitted orders through his Secretariat to "discipline" civilians, by killing them and destroying their property, who had openly rebelled against the regime. Further, AL-SENUSSI, upon GADDAFI's instructions, directed and coordinated the operation of the Security Forces in Benghazi and expressly ordered the shooting at civilians. Demonstrators were attacked by members of the Security Forces who opened machine gun fire on them in different areas of the city, such as the Juliyana bridge and Jamal Abdun Naser Street. Direct evidence of the plan to use extreme and lethal violence is corroborated by the scale, scope and duration of the attacks; the pattern of the attacks in various cities; the speeches and statements of GADDAFI, SAIF AL-ISLAM and AL-SENUSSI; the history of the regime's response to any political opposition within Libya; and the complete authority exercised by GADDAFI and his subordinates over all important security decisions. [...]</p> <p>14. On 18 February in Benghazi the Security Forces carried out further attacks against civilians: they shot with heavy weaponry at a funeral procession when it passed by the barracks of the Al-Fadail Bou Oumar brigade (or Katiba), and at unarmed civilians who demonstrated against the regime. [...]</p>	<p>("Gaddafi's regime") which started in February 2011; [...]</p> <p>CONSIDERING that the evidence submitted by the Prosecutor provides reasonable grounds to believe that the scale of the concerted actions by Saif Al-Islam Gaddafi and his father Muammar Gaddafi leads to the inference that Saif Al-Islam Gaddafi, as part of Muammar Gaddafi's inner circle and in coordination with him, conceived and orchestrated a plan to deter and quell, by all means, the civilian demonstrations against Gaddafi's regime;</p> <p><u>PTC Decision:</u></p> <p>36. The Chamber finds reasonable grounds to believe that in Benghazi:</p> <p>(i) on 16 February 2011, following the gathering of an increasing number of demonstrators in the area of Birka, as well as in Al Fatah street and Jamal Abdun Naser street, Security Forces attacked the demonstrators with tear gas and live ammunition. It was reported that at least three civilian demonstrators were killed;</p> <p>(ii) on 17 February 2011, at the Juliyana Bridge, Security Forces armed with machineguns barricaded the street to stop the demonstrators and opened fire on the unarmed demonstrators; they fired for a significant period of time at the demonstrators causing a number of deaths; it is reported that, following this incident, the funeral of at least 30 people took place on 18 February 2011;</p> <p>(iii) on the same day, in Benghazi, a number of</p>	<p>one witness confirmed in his testimony that Defendant No. 2 was outside of Tripoli at the time and he arrived on 20/2/2011 AD, which means that this charge is groundless. Pg. 0347 [...]</p> <p><u>Facts</u></p> <p>[...] When the accused was asked about the revolutionary groups that countered the protesters in Benghazi, he said that Defendant No. 1 was responsible for them, that Bashir Harir, a reckless and violent man, used to regularly contact Defendant No. 1 and that he chased the protesters along with his group and opened fire on them at Geliana Bridge. He was also present there, gave instructions to ban the protesters from accessing the radio building and saw a number of them lying on the floor. When asked about his role in illegal migration, he said that he provided assistance in these operations, which were conducted at Muammar Gaddafi's instruction. Defendant No. 1 also provided assistance, as well as Defendant No. 8 Muhammad al-Sharif due to his knowledge of Africans. Pg. 0368 [...]</p> <p>[...] When the testimony of Colonel Ali Jum'a al-Zaruq was heard, he said that he worked at the Administrative Affairs Department of the External Security Agency and that the accused Abu Zayd Dorda appointed Major General Abd al-Salam Hamuda as Director of the 15,000-strong Operations Department, asked him to activate the patrols and authorized him to use the stored Tundra cars. He was also monitoring the work of the patrols on the ground, which played a major role in suppressing the protests, especially in Tajura, al-Jum'ah Suq and Fashloom. Pg. 0420. [...]</p> <p><u>Grounds of Judgment</u></p> <p>[...]Whereas the charge of conspiracy by agreement, incitement and contribution to the deliberate killing of protesters in Tripoli and Benghazi brought against Defendant No. 1, was proven with all its elements and evidence based on his explicit confession before the Public Prosecution that at the beginning of the protests in Tripoli,</p>

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	<p>17. During that night, massive demonstrations against GADDAFI took place in different areas of Tripoli after the sunset prayers. GADDAFI's Security Forces opened fire as soon as they met groups of peaceful demonstrators that were walking towards the Green Square. Similar incidents were replicated throughout the day mainly in the areas of the Green Square and city center, Mojam'a Al-Mahakem Court compound and Al-Dribi. The protesters set on fire government buildings, including the General People's Congress, and at least one police station and one ministry. [...]</p> <p>20. On 25 February, Friday, one week after the beginning of the attacks and a day of prayer for the Muslim community, GADDAFI issued further instructions to attack civilians. He learned that demonstrations were scheduled that day after the prayers and instructed the deployment of Security Forces throughout the city. Snipers strategically placed awaited the crowds to leave the mosques. Multiple sources describe how civilians were shot at throughout the city when they were pouring from the mosques after the prayers. On this day alone GADDAFI's forces killed up to one-hundred civilians in Tripoli in the areas of Green Square, Souq al-</p>	<p>demonstrators were killed by Security Forces; it is further reported that hundreds of civilians were received by the hospitals in Benghazi and that some of the victims were as young as 11 or 12 years old;</p> <p>(iv) on 18 February 2011, a number of civilians between 13 to 35 years old, were reported to have been shot and killed by Security Forces while participating in the funeral procession for those killed the day before;</p> <p>(v) on the same day, it is also reported that the bodies of 35 demonstrators, almost all killed by the Security Forces with live ammunition, were received by the Al-Jalaa Hospital. It is also reported that most of them had bullet wounds to the head and the chest;</p> <p>(vi) on 20 February 2011, it is reported that at least at least 60 demonstrators were killed by the Security Forces;</p> <p>[...]</p> <p>38. Furthermore, and on the basis of the Materials provided by the Prosecutor, the Chamber finds reasonable grounds to believe that, in Tripoli:</p> <p>(i) on 17 February 2011, Security Forces fired automatic machineguns at civilian demonstrators in the Gurji, Ghot al-Sha'al and Fashloun areas, killing several protesters;</p> <p>(ii) on 18 February 2011, in the Fashloun area, Security Forces opened fire on civilian demonstrators causing many deaths;</p> <p>(iii) on the same day, in Al-Qadisya square, a helicopter belonging to Security Forces, armed with machine guns, fired on demonstrators that had gathered, killing a number of them;</p> <p>(iv) on 19 February 2011, at least 50</p>	<p>he met the leaders of the military units in Mohammed Magariaf Battalion, including Colonel Ali al-Zubaydi, al-Zawwam al-Saklul and others, and asked them to go out to Green Square in order to suppress the protests. A force was established to that end and provided with (14.5") machine-gun-mounted vehicles. The force opened fire on the protesters for two hours. Pp. 0433-0434 [...]</p> <p>[...] The charge is also proven against the accused based on the testimony of the witness (Nasir al-Hassuni), who said in his testimony before the Public Prosecution that on 17 February 2011 AD, thousands of people gathered and started demanding the overthrow of the regime in Benghazi and came under fire by armed groups in yellow hats. He heard Defendant No. 2 tell the armed men (Throw the dogs) and fire was opened on protesters at Geliana Bridge. The witness added that he's been a friend of Defendant No. 1 since 2006 AD and that Defendant No. 1 called him and asked him to get ready for confrontation. He also informed him that they distributed the weapons. The witness asserted that the accused Sayf al-Islam ordered that weapons be received from Al-Fadil Bu 'Umar Battalion and distributed to kill the protesters. The charge is also proven against the accused based on the testimony of the witness Hamid Abdullah Baraka al-'Azumi, who said before the Public Prosecution that he is the Director of the Internal Security Division in Benghazi, that he was with Abdullah al-Senussi and Mansur Daw during the confrontation with the protests that broke out on 17/2/2011 AD and that he heard the second and fourth accused talk via a satellite-linked (SSR) installed on the vehicle carrying the accused Abdullah al-Senussi; Defendant No. 2 informed the accused Sayf al-Islam that the situation is bad and Defendant No. 4 requested a prompt military intervention from Sayf al-Islam. Sayf al-Islam answered them both saying "Shoot at everything in front of you". Gunshots were fired at the protesters at the Benghazi Gallery and al-Sakabili, Sidi Husayn, killing and injuring many protesters. The charge is also proven against the accused based on the testimony of Musa Abd al-Jawad al-Badri, Al-Fadil Bu 'Umar Battalion Commander, who said in his testimony that</p>

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	<p>Jomaa, Arada, Zawyet al dahmani, Tajoura and Fashloom, among others.</p>	<p>demonstrators were killed by the Security Forces in the Ben Ashour area;</p> <p>(v) on 20 February 2011, Security Forces fired at a civilian crowd that was demonstrating and throwing stones in reaction to the violent arrest of a group of girls who had been chanting slogans in support of Benghazi, causing the death of as many as 80 people;</p> <p>(vi) further on that day, after the sunset prayer, a demonstration spread all over the city and as civilian crowds marched towards the Green Square, Security Forces chased the demonstrators, shooting and killing a number;</p> <p>(vii) also on 20 February 2011, as well, on the way to Bab al-Azizya, in Al Syahya, Gergaresh road. Security Forces drove four vehicles into a crowd of civilian protesters and shot at them at close range causing the deaths of approximately 270 people;</p> <p>(viii) also on 20 February 2011, in the Al-Dribi area, during a demonstration in support of Benghazi, a number of demonstrators were also reportedly killed and injured by the Security Forces;</p> <p>(ix) from 20 to 22 February 2011, at least 62 dead bodies of demonstrators, victims of the random firing by the Security Forces, were brought to morgues in two hospitals in Tripoli;</p> <p>(x) on 24 February 2011, Al-Zawiyah, a neighbouring town of Tripoli, was attacked by Security Forces from three directions (eastern and western side, and from the coastal front), an attack that resulted in at least 18 peaceful demonstrators being killed;</p> <p>(xi) on 25 February 2011, in Tripoli, after the</p>	<p>since the early days of the protests, the accused Sayf al-Islam Gaddafi would call him and order him to dispatch the battalion to the street in order to crush the protests and open live fire on the protesters. Pp. 0434-0435 [...]</p> <p>[...] Whereas the accused, given his education and his status as the son of the country's ruler, knows that the right to peaceful protest is one of the basic human rights in this era, guaranteed by all international law and charters. He also knows that issuing instructions to counter and shoot the protesters might unjustly lead to their arbitrary killing. Whereas the accused, despite knowing all these facts, incited others and gave them explicit instructions to counter, crush and open fire on the protesters. Whereas such incitement and orders led to killing hundreds of unarmed protesters who took to the streets demanding freedom and good governance, which are legitimate and rightful demands. Therefore, the crimes of sabotage, arbitrary killing and deliberate killing are established against the accused with all their evidence and legal elements, which requires him to be convicted. Pp. 0435-0436 [...]</p> <p>[...] Whereas regarding the penalty, the accused committed a large number of serious crimes, since he ordered and incited the killing of the protesters, mobilized armed groups to that end and supplied them with weapons, provided financial and material support to the armed groups that were fighting the people, Pg. 0439 [...]</p> <p>[...] On the charge of involvement in the murder of protesters in Benghazi attributed to Defendant No. 4, the charge is proven against the Defendant based on the testimony of Ahmid Abdullah Barak al-Azumi who stated in his testimony before the Public Prosecution that he was the Director of Security in Benghazi and that on 16 and 17 February 2011, forces of Tariq and Faris Battalions, mostly composed of foreign mercenaries from the National Movement of Azawad, flocked to Camp 7 April in Benghazi along with large numbers of revolutionaries from Sabha and Sirte. These forces were deployed within the city and attacked</p>

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		<p>midday prayer, a large number of civilians who had gathered outside mosques and were trying to make their way to the Green Square were shot by snipers and Security Forces with live ammunition and machine guns and at least 100 of them were killed;⁷⁴</p> <p>(xii) on the same day, in Maydan al-Jaza'ir Square, the Security Forces fired teargas and bullets from several land cruiser vehicles into a crowd of civilians who were coming out of a mosque; the civilians who, witnessing this scene from their windows and balconies, reacted by shouting that the Security Forces were murderers, were, also shot; it is also reported that the Security Forces hid in ambulances and killed those who sought assistances; during this event, at least 10 people were killed.</p> <p>(xiii) also on 25 February 2011, in Souq al-Jomaa near Green Square, Security Forces shot continuously at unarmed demonstrators using tear gas, guns and heavy weaponry, including anti-aircraft weapons, and at least two persons were killed;</p> <p>(xiv) from 17 February 2011 onwards, an undetermined number of demonstrators were murdered and many more were injured when they were attacked by Security Forces in various districts of Tripoli including in the districts of Zawyet al Dahmani and Tajoura and in Arada where Security Forces shot live ammunition into a crowd who were leaving a mosque, thereby killing a number of civilians; [...]</p>	<p>the protesters. They wore yellow hats to be distinguished from protesters. All the forces were under the command of Defendant No. 1, Defendant No. 2, and Defendant No. 4 Mansur Daw. Pg. 0483 [...]</p>

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		<p>49. The Chamber also finds reasonable grounds to believe that Security Forces launched against demonstrators violent attacks using live ammunition, machine guns and tear gas, and as a result of which hundreds of demonstrators were killed and even more injured.</p> <p>50. Indeed, on 17 February 2011, unarmed demonstrators, who had gathered near the High Court in the centre of Benghazi to protest against the arrest of the individual who had been organising the forthcoming protest against Gaddafi's regime, were violently attacked by Security Forces who fired with live ammunition. [...]</p> <p>52. On 16 February 2011, in Benghazi, civilian demonstrators were hit with sticks and dispersed by forces loyal to Muammar Gaddafi. On 17 February 2011, Security Forces who first tried to prevent demonstrators from gathering and to disperse them in different areas of the town, then attacked them throughout the night. Methods of attack included targeting demonstrators with anti-aircraft guns hitting them with clubs and swords, and spraying them with acid.</p> <p>[...]</p> <p>54. On 18 February 2011, demonstrators gathered in Benghazi's square around the High Court and mingled with the funeral procession of the demonstrators who had been killed the previous day. On their way to the cemetery, they were stopped by Security Forces armed with Kalashnikovs at the Katiba military barracks (in</p>	

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		<p>the area of Birka) who fired at them, killing and seriously injuring several demonstrators.</p> <p>55. Violent attacks by Security Forces on demonstrators started in Tripoli on 17 February 2011, when uniformed officers fired at civilians in the Gurji, Ghot-al-Sha'l and Fashloun areas, with automatic machine guns, leaving several protesters wounded and dead.</p> <p>56. On 20 February 2011, one of the most violent attacks occurred in Tripoli, when peaceful crowds of demonstrators in Green Square were fired at by Security Forces, resulting in a number of deaths and injuries. People who live in the area reported hearing the sound of machine gun fire and also seeing a car from which people were shooting in the direction of the demonstrators with AK47s. Later on that day, demonstrators were arrested, including some who had been taken to the hospital. [...]</p> <p>58. Similar incidents of violent attacks by Security Forces using live ammunition against demonstrators were reported by several sources as having occurred on 21 and 22 February 2011; from 20 to 22 February 2011 only, as many as 62 corpses and at least 35 injured were reported being brought to hospitals in Tripoli.</p> <p>59. On 24 February 2011, using tear gas and then live ammunition, the Security Forces attacked large crowds of demonstrators in Martyrs Square in the neighbouring town of Al-</p>	

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		<p>Zawiyah, killing at least 18 people and injuring about 500 protesters.</p> <p>60. From 17 February 2011 up to at least 25 February 2011, in Tripoli's Green Square and in other districts such as Souq al-Jomaa, Ben Ashour, Tajoura, Arada, Zawyet al Dahmani, Fashloun and Maydan al-Jazair square, Security Forces shot randomly with machine guns at gathering crowds. A relative seeking to collect the body of a victim in the aftermath of the attack was forced to sign a statement saying that his brother was "a rat" from the opposition.¹²⁴</p> <p>61. On 19 February 2011, in Misrata, demonstrators were first attacked by Security Forces with tear gas and then fired at, which resulted in at least two people being killed, one immediately and the other five days after the attack, and at least four others injured.</p> <p>62. On 20 February 2011, Security Forces guards shot at a large crowd which had gathered in Misrata with anti-aircraft guns and tear gas; the shooting resulted in the deaths of at least four demonstrators and the injury of a large number of others.</p> <p>63. Throughout their attacks, Security Forces continued their search for demonstrators also in hospitals, which led many wounded individuals to refraining from seeking medical assistance out of fear of arrest and subsequent reprisals. According to other reports, medical care was also denied to protesters.</p>	

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7.		<p><u>PTC Decision:</u></p> <p>37. There are also reasonable grounds to believe that, on 17 February 2011, in the eastern Libyan cities near Benghazi, such as Al-Bayda, Derna, Tobruk and in Ajdabiya, at least 29 peaceful demonstrators were killed as a result of violent attacks by Security Forces.</p>	<p><u>Facts</u></p> <p>[...] He added that Defendant No. 1 asked him to disburse an amount of money to Muammar Farakash in order to accomplish a "dirty" mission in al-Bayda'. Pg. 0363 [...]</p> <p>[...] When the testimony of the citizen Abd al-Mun'im Ibrahim al-Jazawi was heard, he said that on 26/4/2011 AD, as he was driving around Ajdabiya in his car, he was subject to arbitrary shelling by Gaddafi's members. As a result, he was hit by a bullet and his vehicle was damaged. When the testimony of the citizen Khalid Ali al-Tarhuni was heard, he said that on 9/4/2011 AD, as he was standing in front of his house in Ajdabiya, he saw a group of Gaddafi battalion members chasing a person, then shoot and kill him. Afterwards they approached him and beat him with the rifle stock then tied him up and moved him to a detention center in al-Brigah, where they were beaten, tortured and sprayed with pesticides. the testimony of the citizen Abd al-Mun'im Ibrahim al-Jazawi was heard, he said that on 26/4/2011 AD, as he was driving around Ajdabiya in his car, he was subject to arbitrary Pp. 0403-0404 [...]</p>
<i>Demonstrators shot with machine guns from vehicles</i>			
8.	<p>12. GADDAFI's plan expressly included the use of lethal force against demonstrators and alleged dissidents. In the early days of the demonstrations, GADDAFI transmitted orders through his Secretariat to "discipline" civilians, by killing them and destroying their property, who had openly rebelled against the regime. Further, AL-SENUSSI, upon GADDAFI's instructions, directed and coordinated the operation of the</p>	<p><u>PTC Decision:</u></p> <p>57. On the same day, in Tripoli, demonstrators were chased and shot at from vehicles whose occupants were armed with machine guns in various parts of town (including the Al-Dribi area and the area of the main road Al-Syahya, Gergaresh) as a result of which demonstrators were killed and injured.</p>	<p><u>Facts</u></p> <p>[...] When the testimony of Khalid Abd al-Haq al-Sharif, the Mohammed Magariaf Battalion Commander Office Director, was heard, he said that when the 17 February Revolution broke out and on the day news spread about Muammar Gaddafi's escape to Venezuela, a meeting was held at the Battalion Commander's office between Defendants Nos. 1, 3, 4 and 5 and other security leaders, during which Sayf al-Islam incited the use of force to suppress the protests. The legions' commanders in the battalion were instructed to go out to Green Square in order to suppress the protests, (14.5'') machine-gun-mounted vehicles were readied and shortly after the force left the</p>

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	<p>Security Forces in Benghazi and expressly ordered the shooting at civilians. Demonstrators were attacked by members of the Security Forces who opened machine gun fire on them in different areas of the city, such as the Juliyana bridge and Jamal Abdun Naser Street. Direct evidence of the plan to use extreme and lethal violence is corroborated by the scale, scope and duration of the attacks; the pattern of the attacks in various cities; the speeches and statements of GADDAFI, SAIF AL-ISLAM and AL-SENUSSI; the history of the regime's response to any political opposition within Libya; and the complete authority exercised by GADDAFI and his subordinates over all important security decisions.</p>		<p>battalion's headquarters, gunshots were heard for two hours. The witness added that on 25/2/2011 AD after Friday prayer, Defendant No. 1 was monitoring the situation on the street by communicating with mobile patrols via wireless devices. Pp. 0394-0395 [...]</p> <p style="text-align: center;"><u><i>Grounds of Judgment</i></u></p> <p>[...] Whereas the charge of conspiracy by agreement, incitement and contribution to the deliberate killing of protesters in Tripoli and Benghazi brought against Defendant No. 1, was proven with all its elements and evidence based on his explicit confession before the Public Prosecution that at the beginning of the protests in Tripoli, he met the leaders of the military units in Mohammed Magariaf Battalion, including Colonel Ali al-Zubaydi, al-Zawwam al-Saklul and others, and asked them to go out to Green Square in order to suppress the protests. A force was established to that end and provided with (14.5") machine-gun-mounted vehicles. The force opened fire on the protesters for two hours. This charge is also proven against the accused based on the testimony of the witness (Khalid Abd al-Haq al-Sharif)—the Director of the Office of (Mohammed Magariaf) Battalion Commander, Major General (al-Barani Ashkal)—who said in his testimony before the Public Prosecution that Defendant No. 1 (Sayf al-Islam), on the day news spread about Muammar Gaddafi's escape to (Venezuela), came to the headquarters of the Battalion and requested to meet the commanders of the Battalion's legions, i.e. Colonel Rahil [illegible], Colonel Bil'id Gaddafi Ali Ibrahim, Colonel Ali al-Zubaydi and Colonel al-Zawwam al-Saklul. He asked them to head out to Green Square in order to suppress the protests. The force was readied and the witness saw (14.5") machine-gun-mounted vehicles commanded by Colonel Bil'id Gaddafi Ali Ibrahim, the Air Defense Commander, and shortly after the force left the battalion's headquarters, gunshots were heard for two hours. Pp. 0433-0434 [...]</p>

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<i>Attack on demonstrators in Juliyana Bridge and Abdul Naser Street</i>			
9.	12. [...] Demonstrators were attacked by members of the Security Forces who opened machine gun fire on them in different areas of the city, such as the Juliyana bridge and Jamal Abdun Naser Street. [...]	<p><u>PTC Decision:</u></p> <p>36. The Chamber finds reasonable grounds to believe that in Benghazi:</p> <p>(i) on 16 February 2011, following the gathering of an increasing number of demonstrators in the area of Birka, as well as in Al Fatah street and Jamal Abdun Naser street, Security Forces attacked the demonstrators with tear gas and live ammunition. It was reported that at least three civilian demonstrators were killed;</p> <p>(ii) on 17 February 2011, at the Juliyana Bridge, Security Forces armed with machineguns barricaded the street to stop the demonstrators and opened fire on the unarmed demonstrators; they fired for a significant period of time at the demonstrators causing a number of deaths; it is reported that, following this incident, the funeral of at least 30 people took place on 18 February 2011;</p> <p>53. A particularly violent attack was witnessed on 17 February 2011 near the Kobry (Juliyana Bridge) in Benghazi. Armed men from Security Forces started shooting at the demonstrators with machine guns and those who were not shot and were not able to flee were arrested. As a result of this attack, a large number of injuries and deaths among the demonstrators were reported. Attacks by Security Forces continued against demonstrators throughout the night.</p> <p>[...]</p>	<p><u>Facts</u></p> <p>[...] When the testimony of Nasir Miftah al-Hassuni was heard, he said that on 17 February 2011 AD, thousands of people gathered and started demanding the overthrow of the regime; the Yellow Hats that were brought by Muhammad Abdullah al-Senussi clashed with the protesters using batons and clubs and when the protesters arrived to Geliana Bridge in Benghazi, they came under heavy fire from Abdullah al-Senussi; Defendant No. 2 told security members "Toss the dogs" and he saw many protesters fall from the bridge to the water. The witness added that he knows Defendant No. 1 and their relationship had developed since 2006 AD and Defendant No. 1 called him and said "Get ready for confrontation, form a Room in the Battalion and defend yourselves. We issued instructions to distribute weapons". Pg. 0390 [...]</p> <p><u>Grounds of Judgment</u></p> <p>[...] The charge is also proven against the accused based on the testimony of the witness (Nasir al-Hassuni), who said in his testimony before the Public Prosecution that on 17 February 2011 AD, thousands of people gathered and started demanding the overthrow of the regime in Benghazi and came under fire by armed groups in yellow hats. He heard Defendant No. 2 tell the armed men (Throw the dogs) and fire was opened on protesters at Geliana Bridge. The witness added that he's been a friend of Defendant No. 1 since 2006 AD and that Defendant No. 1 called him and asked him to get ready for confrontation. He also informed him that they distributed the weapons. The witness asserted that the accused Sayf al-Islam ordered that weapons be received from Al-Fadil Bu 'Umar Battalion and distributed to kill the protesters. Pg. 0434 [...]</p>

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		87. The Chamber is further satisfied that there are reasonable grounds to believe that Abdullah Al-Senussi, once instructed by Muammar Gaddafi to implement the plan of deterring and quelling civilian demonstrations against the regime in Benghazi, used his powers over the military forces, commanded the forces in Benghazi and directly instructed the troops to attack civilians demonstrating in the city. In the incident at the Juiyana Bridge in Benghazi on the 17 of February he directly ordered his troops to "shoot the dogs".	
<i>Attack on demonstrators in Misrata</i>			
10.	15. The same attacks were replicated throughout the country: for example in Misrata , Security Forces opened fire against a peaceful demonstration on 19 February and shot at a funeral procession on 20 February. In both incidents unarmed civilians were killed.	<p><u>PTC Decision:</u></p> <p>39. In addition, in Misrata: (i) on 19 February 2011, in the area of Mosque Al-Sheikh next to the corner of Al-Bey, during a demonstration for the freedom of Benghazi, at least two civilian demonstrators were killed (one dying immediately and the other five days later) by Security Forces using live ammunition; and (ii) on 20 February 2011, civilian inhabitants of Misrata who had assembled to attend the funeral of a victim of the previous day's shootings were shot at during the procession by Security Forces using anti-aircraft guns and tear gas, at least four civilians were killed. [...]</p>	<p><u>Facts</u></p> <p>[...] When the testimony of Ali Muhammad Ma'tuq al-Zubaydi, Colonel at Mohammed Magariaf Battalion and Commander of Taurgha's Area of Operations, was heard, he said that Defendant No. 1 called him on 27/2/2011 AD and inquired about the reason for the delayed march to Misratah, so he told him that there is no military force and that the available force is only composed of undisciplined volunteers. Defendant No. 1 then said "Just as we must preserve our dignity, we must also preserve that of Taurgha' and you must enter Misratah because its residents perceive you as inferior. They perceive you as slaves. You've been following them for years while they deprived you of everything, so this is your chance to take revenge and recover your violated rights from Misratah's people". He added that the incitement of Taurgha's people by Defendant No. 1 led the volunteers to commit looting, vandalism and arson in Tamina and Kerzaz. Pp. 0385-0386 [...]</p> <p>[...] When the testimony of Milad Muhammad al-Ashikih, the Colonel in command of Taurgha's legion of volunteers, was heard, he said that on 27 and 28/2/2011 AD, Ali al-Zubaydi told him that the force</p>

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			<p>would enter Misratah and that Defendant No. 1, Sayf al-Islam, gave him these instructions and he could not disobey him. The force came in from the east and was not able not control the volunteers, who committed theft in Tamina. The witness added that on 6/3/2011 AD they entered Misratah with the 32nd Reinforced Brigade with tank support and the volunteers remained at Shanteen buildings; however, some of them infiltrated Misratah and committed theft and arson in Kerzaz and Tamina. Regarding the drugs, the witness said that a week after coming to Taurgha', two officers came to Ali al-Zubaydi and gave him two boxes of narcotics, noting that Abdullah al-Senussi sent the two boxes so that he would distribute their content to the volunteers and military men. [...] The witness added that the volunteers from Taurgha' were very excited due to the material incentives provided by the General People's Committee, namely, a monthly reward of 1,000 LYD and a vehicle for each three volunteers, and given the incitement of Taurgha's people by Defendant No. 1 to raid Misratah. Pp. 0386-0387 [...]</p> <p>[...] When the testimony of Khalid Abd al-Haq al-Sharif, the Director of the Office of Major General al-Barani Ashkal, Mohammed Magariaf Battalion Commander, was heard, he said that when the 17 February Revolution broke out, the accused Sayf al-Islam was always present at the battalion's headquarters and monitoring the security and military situation in al-Brigah, the Western Mountains, Misratah and al-Zawiyah and issuing instructions. The witness added that the battalion Commander Major General al-Barani Ashkal was grudgingly carrying out instructions of the accused Sayf al-Islam and the latter got angry at him and told him many times "al-Barani, do as we tell you". Pg. 0409 [...]</p> <p style="text-align: center;"><u>Grounds of Judgment</u></p> <p>[...] This charge is also proven against him based on the statements of Ali al-Zubaydi, Taurgha's Commander of Operations, who said</p>

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			<p>in his testimony before the Public Prosecution and his testimony before the Association of Human Rights Activists for the Documentation of War Crimes, which is attached to the case file, that on 27/3/2011 AD, Sayf al-Islam Gaddafi called him and asked him to attack Misratah saying "You must enter Misratah because its residents perceive you as inferior. They perceive you as slaves. You've been following them for years while they deprived you of everything, so this is your chance to take revenge and recover your violated rights from Misratah's people". The witness added that the acts committed by Taurgha's volunteers, i.e. looting, sabotage, arson, kidnapping, killing and rape, were incited by Sayf al-Islam. The charge is also proven against the accused based on the testimony of Milad al-Ashikih, who told the Public Prosecution that he was assigned work in Taurgha's security zone and that he didn't know the accused Sayf al-Islam; however, he was once with Colonel Ali al-Zubaydi when the latter received a call from Sayf al-Islam Gaddafi instructing him to move towards Misratah and arrest and kill the people of Misratah, whom he described as rebels. The witness added that lootings, killings and acts of sabotage were committed by the volunteers under his command. Pg. 0429 [...]</p>
F) The Crimes for which Saif Gaddafi is charged - Murder			
11.	<p>From 15 February 2011 onwards, GADDAFI, as indirect perpetrator, and SAIF ALISLAM and AL-SENUSSI, as indirect co-perpetrators, committed crimes against humanity in the form of murder across Libya in, inter alia, Tripoli, Benghazi, and Misrata, through the Libyan State apparatus and Security Forces in violation of Articles 7(1)(a) and 25(3)(a) of the Rome Statute.</p> <p>35. In sum, the evidence demonstrates that GADDAFI conceived a plan to</p>	<p><u>Warrant of Arrest:</u></p> <p>CONSIDERING that the evidence submitted by the Prosecutor provides reasonable grounds to believe that the scale of the concerted actions by Saif Al-Islam Gaddafi and his father Muammar Gaddafi leads to the inference that Saif Al-Islam Gaddafi, as part of Muammar Gaddafi's inner circle and in coordination with him, conceived and orchestrated a plan to deter and quell, by all means, the civilian demonstrations against Gaddafi's regime;</p>	<p><u>The Indictment</u></p> <p>* Defendants Nos. 1, 2, and 4:</p> <p>(1) Incited, agreed and helped to perpetrate deliberate killings by forming revolutionary groups (Yellow Hats), Al-Fadil Bu 'Umar Battalion, Tariq and Faris Security Battalions, Military Intelligence, Internal Security, External Security, Police, Revolutionary Guard, People's Guard and security formations. The above-mentioned accused persons provided these formations with weapons and ammunition to suppress protesters in various parts of Benghazi, such as Geliana Bridge, Jamal Abd al-Nasir St., Sidi Husayn and Al-Fadil Bu 'Umar Battalion. Then they ordered them to open fire on the protesters in order to kill them. As a result, (107) persons, whose names are mentioned in the attached</p>

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	<p>quell the popular demonstrations of February 2011 by all means, including through the use of extreme and lethal violence. Pursuant to this plan, the Security Forces carried out a widespread and systematic policy of attacks against civilians perceived as dissidents with the purpose of maintaining GADDAFI's power. SAIF AL-ISLAM and ALSENUSSI played key roles in the implementation of the plan. As a result, GADDAFI, SAIF AL-ISLAM and AL-SENUSSI are criminally responsible for the killings, arrests, detentions, disappearances and acts of ill-treatment against unarmed demonstrators and alleged dissidents committed by the Libyan Security Forces as of 15 February 2010.</p>	<p>[...] CONSIDERING further that there are reasonable grounds to believe that Saif Al-Islam Gaddafi (i) intended to bring about the objective elements of the foregoing crimes; (ii) knew that his conduct was part of a widespread and systematic attack against the civilian population pursuant to the State policy set up by Muammar Gaddafi in coordination with his inner circle, of which he himself was part; (iii) was well aware of his senior leadership role within the structure of the Libyan State apparatus and of his power to exercise full control over his subordinates and (iv) was aware and accepted that implementing the plan would result in the realization of the objective elements of the crimes; CONSIDERING accordingly that there are reasonable grounds to believe that Saif Al-Islam Gaddafi is criminally responsible as an indirect co-perpetrator, under article 25(3) (a) of the Statute, for the following crimes committed by Security Forces under his control in various localities of the Libyan territory, in particular in Benghazi, Misrata, Tripoli and other neighboring cities, from 15 February 2011 until at least 28 February 2011 :</p> <p><u>PTC Decision:</u></p> <p>71. In the instant case, after carefully reviewing the Materials provided by the Prosecutor, the Chamber finds reasonable grounds to believe that pursuant to article 25(3)(a) of the Statute (i) Muammar Gaddafi and Saif Al-Islam Gaddafi are criminally responsible as indirect co-perpetrators of the crimes against humanity of</p>	<p>statement beginning with Naji Jum'a al-Kawafi and ending with Salih Miftah al-'Uraybi, were fatally injured as shown in the attached forensic report. These crimes were committed as a result of the incitement, agreement and help described in the papers.</p> <p>(2) Incited, agreed and helped to perpetrate deliberate killings by mobilizing groups from Tarhunah, Bani Walid, Sirte and Tripoli neighborhoods, particularly Abu Salim, and a group of members from regime battalions and services. They provided these groups with various weapons and ammunition and ordered them to spread across Tripoli and kill whoever opposes the father of Defendant No. 1. They killed (155) victims, whose names are mentioned in the attached statement, beginning with Mahmud Ali al-Samin and ending with Siraj al-Din Ali Muhammad Murad, in various parts of Tripoli, such as the Airport Road, the highway, Gharghur and Bab al-'Aziziya, after they were shot at the command of Defendant No. 1 person and with his full knowledge. These crimes were committed as a result of the incitement, agreement and help described in detail in the papers.</p> <p>(3) Incited, agreed and helped to perpetrate attempted murder by forming groups as described above and providing them with weapons and ammunition, then ordering them to open fire on protesters in various parts of Benghazi as stated above with the intent of killing, thus injuring Khalid 'Awad Salih al-Shaykhi, 'Umar Mansur al-Warfali, Mu'taz Salih Humaydan, Suhayr Salim al-Misallati, Muhammad Muhammad al-Sufi, Abdullah al-Karim al-'Uqayli, Fathi Sh'ayb al-'Ubaydi, Hamza Miftah al-Zulaytini, Abd al-Ma'izz Sa'id al-'Uraybi and Jamal Hayba al-'Uraybi. The attempted murder failed for reasons beyond the control of the groups, such as inaccurate aim and the rescue and treatment of victims, as shown in the forensic report and the attached medical reports. Pp. 0287-0288</p> <p>* Defendants Nos. 1, 2, 3, 4, 5, 6, 7 and 14:</p> <p>(1) Acted as accomplices by incitement, agreement and assistance in deliberate killings by targeting protesters in Tripoli and its suburbs as well as protesters in and heading towards Green Square. They provided their subordinates with weapons and ammunition</p>

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		<p>murder and persecution based on political grounds that were committed in various localities of the Libyan territory from 15 February 2011 until at least 28 February 2011, as described in Section III of the present decision; [...]</p> <p>72. [...]as such, at all times relevant to the Prosecutor's Application, Saif Al- Islam Gaddafi exercised control over crucial parts of the State apparatus, including finances and logistics and had the powers of a de facto Prime Minister.</p> <p>73. [...]Muammar Gaddafi orchestrates the exercise of his powers with the support and collaboration of his inner circle, the most influential of whom is his son Saif Al-Islam Gaddafi, who enjoys a prominent position within the Libyan hierarchy. While Saif Al-Islam Gaddafi is subordinated only to Muammar Gaddafi, he also enjoys undisputed control over crucial parts of the State apparatus and has the power to trigger the State machinery and issue orders to all of Muammar Gaddafi's subordinates, as they are, at the same time all subordinated to him. [...]</p> <p>75. [...] In the view of the Chamber, there are indeed reasonable grounds to believe that Muammar Gaddafi's and Saif Al-Islam Gaddafi's orders to any branch of the State apparatus automatically activated the State machinery leading to the compliance with such orders by any replaceable direct perpetrator.</p> <p>76. The Chamber also finds that the evidence submitted by the Prosecutor provides reasonable</p>	<p>and ordered them to open fire on the protesters with the intent of killing in order to prevent them from accessing the above-mentioned places and stopping the protests. As a result, (71) persons, whose names are mentioned in the attached statement, beginning with Salih Khalifah al-Hadi and ending with Faraj Abd al-'Aziz Abdullah, sustained fatal injuries described in the attached forensic reports. These crimes were committed as a result of the incitement, agreement and help described in the papers. Pg. 0288</p> <p>*Defendants Nos. 1 through 34:</p> <p>- Committed within the territory of the State arbitrary acts of sabotage, looting and homicide across the country in order to undermine State security. Defendants 1, 2, 3, 4, 8, 10, 11, 18, 31 and 38 provided financial support. Pg. 0284</p> <p>Defendants Nos. 1, 2 and 16 used fighter aircraft to bomb civilian targets and drop internationally-prohibited mines. Pg. 0284.</p> <p>Defendants Nos. 1, 2 and 3 formed cells in charge of killings, explosions and sowing dissension in the eastern region, which was rebelling against the regime. Defendant No. 3 person ran these cells.</p> <p>All these acts of sabotage, looting and murder aim to undermine the safety of the Libyan people Pg. 0285.</p> <p><u>Witness Testimony/Testimony of Accused Individuals</u></p> <p>[...]The attorney of Defendant No. 21 said that he is ready for pleading. [...] Regarding the formation of cells tasked with carrying out explosions in the eastern region, the attorney said that this is a groundless charge because Defendant No. 1 admitted that he is responsible for the eastern region and he is the one who issued the instructions and provided weapons to the region. Therefore, the attorney's client had nothing to do in the matter. Pg. 0349 [...]</p> <p><u>Facts</u></p>

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		<p>grounds to believe that the scale of the concerted actions by Muammar Gaddafi and his son Saif Al-Islam Gaddafi leads to the inference that Muammar Gaddafi in coordination with his inner circle, including Saif Al-Islam Gaddafi, conceived and orchestrated a plan to deter and quell, by all means, the civilian demonstrations against the regime which began in Libya soon after the events in Tunisia and Egypt which led to the departure of their Presidents in the early months of 2011.</p> <p>77, The Chamber finds reasonable grounds to believe that the abovementioned plan was effected through the use and control of various communication media, the monitoring of emails, the sending of SMS messages and the issuing of public speeches intended to disrupt demonstrations, threaten possible dissidents and incite the population to act against those perceived to be dissidents. The implementation of the plan also included the blocking of various internet and international television channels, in order to prevent the population from accessing any source of information not emanating from the official State channels. As discussed in paragraph 30 above, a cover-up campaign was also implemented in order to conceal the commission of crimes by the Libyan State apparatus, notably through the removal of bodies and other traces of the events from the streets, the surveillance of hospitals to remove data and bodies, and the arrests and manipulation of international journalists to prevent open and free reporting of the events as they occurred.</p>	<p>[...] He once saw Defendant No. 1 get out of Bab al-'Aziziya in a white Toyota Land Cruiser and a group of arrested people were brought to the island and beaten in the presence of Sayf Gaddafi, who said ([illegible], rats, [illegible]) then ordered his guards to open fire on the arrested people, so they complied. The witness asserted that Sayf al-Islam ordered their killing. Pg. 0389 [...]</p> <p>[...] When the testimony of Muhammad Miftah al-Hamil was heard, he said that his brother was killed on 23/9/2011 AD by Muhammad Abu 'Ujayla, one of Sayf Gaddafi's assistants, and [illegible] [illegible]. When the testimony of 'Amir al-Sa'idi was heard, he said that his brother was treacherously killed by Gaddafi's battalions after being tortured since his arm was broken. The witness asserted that the Sayf Gaddafi was the one who instructed the killing of his brother and added that he saw Defendant No. 1 stand on top of a house and say "This belongs to rats". He noted that the volunteers were robbing and torching houses.</p> <p>When the testimony of the citizen Salima Khalifah al-'Abdiyyah was heard, she said that in Ramadan, she saw Defendant No. 1 come to Abu Salim and talk to the young men for a quarter of an hour then leave. Afterwards, 8 to 10 (M-T and 145) heavy anti-tank vehicles were delivered to the young men. Her brother (Sa'id) came carrying an RPG that he claimed to have obtained from Sayf al-Islam. When the testimony of al-Mabruk Mubarak 'Amir al-Khazimi was heard, he said that his brother and son were killed on 19/9/2011 AD by Gaddafi's battalions that were commanded by Sayf al-Islam Gaddafi in Bani Walid, where these groups carried out military acts, arrests and killings. Pp. 0389-0390 [...]</p> <p>[...] When the testimony of Wasim Husayn Gaddafi, a member of the Revolutionary Guard in Sirte, was heard, he said that on 16/8/2011 AD, he was in Sirte and heard on the speakers a call to volunteer in support of Tripoli. To that end, he provided buses that headed to Tripoli with 150 persons on board</p>

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		<p>78. The Chamber further finds that Muammar Gaddafi and Saif Al-Islam Gaddafi contributed to the implementation of the plan by assuming essential tasks that led to the commission of the crimes listed in the Application. The contributions of both Muammar Gaddafi and Saif Al-Islam Gaddafi were essential for the realisation of the plan, since both had the power to frustrate the commission of the crimes by not performing their tasks. [...]</p> <p>80. Saif Al-Islam Gaddafi's contributions amounted to, inter alia: (i) support of and contribution to the design of the plan; (ii) use of his powers and authority to ensure the implementation of the plan; (iii) ordering the recruitment of mercenaries and the mobilization of militias and troops; (iv) ordering the imprisonment and elimination of political dissidents; (v) providing resources to Security Forces; (vi) publicly addressing the population in order to threaten and scare demonstrators and mobilise Muammar Gaddafi's supporters; and (vii) contributing to the cover-up campaign, notably by denying the commission of crimes by the Security Forces and shifting the responsibility to the demonstrators. [...]</p> <p>83. Accordingly, the Chamber finds that there are reasonable grounds to believe that Muammar Gaddafi and Saif Al-Islam Gaddafi are both mutually responsible as principals to the crimes pursuant to article 25(3)(a) of the Statute, as indirect co-perpetrators of the crimes against humanity of murder and persecution based on political grounds that were committed in various</p>	<p>and when they arrived in Tripoli, they found groups from Bani Walid and Tarhunah and received rifles and ammunition, then came Sayf al-Islam and inquired about Sirte's group and the names of its members. Sayf al-Islam also recognized the witness and asked him "Is your grandmother Raj'at al-Suda and your uncle Sa'd" and the witness answered "Yes". Then Sayf al-Islam tasked them with guarding him and requested the rest of the groups go to Tripoli (Bomb whoever you suspect from the rats) and gave them Tundra vehicles. These groups arrested and shot many persons and their corpses were strewn everywhere afterwards. These groups continued to bring people from the streets to Bab al-'Aziziya and shoot them. In most cases, Defendant No. 1 saw these executions and ordered the killings saying "Kill the dogs". Pg. 0395 [...]</p> <p>[...] When the testimony of Hamid Abdullah al-'Azumi, Director of Security for Benghazi, was heard, he said that on 14/2/2011 AD, he attended a meeting presided by Defendant No. 2, who requested tighter control of the city. [...] The witness heard the second and fourth accused talk with Defendant No. 1 in Tripoli via a satellite-linked STR, a.k.a. (C500-RIFE), informing him that the situation is bad so he instructed them to use live fire. Pg. 0399 [...]</p> <p>[...] When the testimony of the citizen Ali 'Ayyad Mas'ud al-Bishti was heard, he said that Sayf al-Islam is responsible for all the killings, lootings and thefts in Bani Walid and that he was the real governor of the city. Pg. 0408 [...]</p> <p style="text-align: center;"><u>Grounds of Judgment</u></p> <p>[...] Whereas the Court concluded, upon inspection of other case records, that the charge of sabotage and arbitrary killing with the intent to undermine national security brought against the accused Sayf al-Islam Muammar Gaddafi, since he provided financial support to Gaddafi's battalions that killed the Libyan people, is established against the accused based on the statements of Defendant No. 3 al-Baghdadi al-Mahmudi. The latter told the Public Prosecution that the accused Sayf al-Islam came to his</p>

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		localities of the Libyan territory from 15 February 2011 until at least 28 February 2011, as described in Section III of the present decision.	<p>office and told him he was not going anywhere until he disburses the required cash to security services. Afterwards, Defendant No. 3 instructed Uthman al-Da'iki to receive an amount of 50 million LYD as petty cash, a part of which was transferred to the account of the 32nd Reinforced Brigade due to the intervention of Defendant No. 1, who called his brother (Khamis) in front of him and told him "Send your group to receive what is required". The accused Sayf al-Islam Gaddafi also asked him to disburse an amount of money to (Muhammad Bashir) in order to meet the requirements of the security services. [...] Whereas the accused knew that providing financial support to the armed groups and African mercenaries allows these forces to pursue their brutal war against the Libyans, which happened in fact, as many cities were ruined and people were killed because of these forces that were supplied with funds and ammunition by the accused. Therefore, this charge is proven against the accused with all its evidence and elements.</p> <p>Whereas the charge of sabotage and arbitrary killing was brought against Defendant No. 1, since he brought in and equipped mercenaries to fight the Libyan people. This charge is proven against the accused based on the statements of Defendant No. 4 (Mansur Daw Ibrahim), who told the Public Prosecution that the accused Sayf al-Islam and Abdullah al-Senussi supervised the Africans whom he brought from the Zaghawa, al-Qar'an and al-Mahamid tribes and held meetings with Khalil Ibrahim, the leader of the Sudanese Justice and Equality Movement and he personally attended part of these meetings at the the Rixos Hotel, which aimed to equip Khalil Ibrahim's forces and distribute them to the battle fronts in Misratah and the Western Mountains. The charge is also proven against the accused based on the confession of Defendant No. 2, who told the Public Prosecution that Sayf al-Islam was monitoring the recruitment of mercenaries. The charge is proven against the accused based on the testimony of al-Hadi Ambirish, who told the Public Prosecution that Sayf al-Islam met more than once with Khalil Ibrahim at al-Mahari Hotel in Tripoli for coordination</p>

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			<p>purposes to bring in mercenaries and that large numbers of mercenaries were indeed recruited and fought at the Western Mountains while the Room was arming them. The charge is proven against the accused based on his confession that he disbursed funds on the mercenaries brought by Khalil Ibrahim, Muna Mannawi and Abd al-Wahid Nur. Whereas all the above-mentioned evidence prove that Defendant No. 1 brought in, equipped and armed African mercenaries and dispatched them to the battle fronts in Misratah and the Western Mountains in order to fight the Libyan people opposing his father's regime. Whereas the accused knows given his education and political status that hiring mercenaries to fight the people is not only an unpatriotic act but also a criminal one under the law and that these mercenaries, who are professional at killing, would kill Libyans. Whereas it was indisputably established by the aforementioned testimonies that the mercenaries entered the battle fronts in Misratah and the Western Mountains and fought the residents of these areas, committing widespread killings and wreaking havoc. Therefore, this charge is proven against the accused with all its evidence and elements. Pp. 0427-0429 [...]</p> <p>[...] This charge is also proven against him based on the statements of Ali al-Zubaydi, Taurgha's Commander of Operations [...] The witness added that the acts committed by Taurgha's volunteers, i.e. looting, sabotage, arson, kidnapping, killing and rape, were incited by Sayf al-Islam. Pg. 0429 [...]</p> <p>[...] The charge is proven against the accused based on the testimony of the citizen al-Mahdi Abdullah al-Khazimi, who said in his testimony before the Public Prosecution that the accused Sayf al-Islam was inciting people while he was in Bani Walid to fight the rebels and kill the supporters of the 17 February Revolution and torch their houses, saying, "This belongs to rats". Whereas all the aforementioned evidence prove that the accused committed crimes of sabotage, killing, instigating civil war and dismantling national unity. Pg. 0430 [...]</p>

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			<p>[...] Whereas the accused has undisputedly revived old conflicts and grudges between the people and created new rivalries between the residents of the Libyan cities and regions, given the atrocities committed by the volunteers under his command as a result of his incitement, such as killings, rape, kidnapping, looting funds, sabotage and house torching, all of which targeted the residents of rebel cities. Therefore, this crime is established against the accused with all its evidence and elements. Pg. 0430 [...]</p> <p>[...] Whereas the sabotage and arbitrary killing charge brought against Defendant No. 1, since he incited the arbitrary shelling of rebel cities, is proven against the accused based on the testimony of (al-Hadi Ambirish) who said before the Public Prosecution that Sayf al-Islam used to come to the Security Room and instruct them to control the country; he also instructed his brother Khamis to control al-Zawiyah and was monitoring the operations. Pg. 0431 [...]</p> <p>[...]The charge is also proven against the accused based on the testimony of Musa Abd al-Jawad al-Badri, Al-Fadil Bu 'Umar Battalion Commander, who said in his testimony that since the early days of the protests, the accused Sayf al-Islam Gaddafi would call him and order him to dispatch the battalion to the street in order to crush the protests and open live fire on the protesters. The charge is proven against the accused based on the lists of people who were killed during the protests in Tripoli, starting with the name of the citizen Salih Khalifah Khalaf Allah recorded under No. (1) and ending with that of the citizen Siraj al-Din Ali Muhammad Murad recorded under No. (155). Among the names included in these statements are for example those of the following citizens: Hisham Misbah Taniba, 'Asim Abd al-Nabi Sa'd Ramadan, Muhammad al-Zaruq Qanbur and Hamza Ramadan al-Halluj. The charge is also proven against the accused based on the lists of people who were killed in Benghazi, starting with the name of the citizen Naji Jum'a al-Kawafi recorded under No. (1) and ending with that of the citizen Salih Miftah Bu Qashat al-</p>

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			<p>Arabi recorder under No. (107). Among the names included in these statements are for example those of the following citizens: Muhammad Salim Abu Janah, Faraj Ali al-Warfali, Muhammad Ahmad al-Safrani and Mir'i Ali al-Farjani. Whereas the victims' medical reports, which are attached to the case file, prove that they were all killed due to gunshot wounds in various parts of their bodies such as the head, the chest and the belly.</p> <p>Whereas the accused, given his education and his status as the son of the country's ruler, knows that the right to peaceful protest is one of the basic human rights in this era, guaranteed by all international law and charters. He also knows that issuing instructions to counter and shoot the protesters might unjustly lead to their arbitrary killing. Whereas the accused, despite knowing all these facts, incited others and gave them explicit instructions to counter, crush and open fire on the protesters. Whereas such incitement and orders led to killing hundreds of unarmed protesters who took to the streets demanding freedom and good governance, which are legitimate and rightful demands. Therefore, the crimes of sabotage, arbitrary killing and deliberate killing are established against the accused with all their evidence and legal elements, which requires him to be convicted. Pp. 0435-0436 [...]</p> <p>[...] Whereas the charge of incitement, contribution and agreement to kill the protesters was brought against the accused since he mobilized armed groups from Tarhunah, Bani Walid, Abu Salim and Sirte, supplied them with weapons and ordered them to kill whoever opposes his father's regime. This charge is proven against the accused based on the testimony of Isam Jum'a al-Wirshfani, who told the Public Prosecution that he was in the company of youth from Abu Salim and Sayf al-Islam showed up when they were at the entrance of Bab al-'Aziziya. A group of civilian cars driven by Libyan youths without license plates arrived. The cars were carrying young men whose hands were tied up and who were being beaten by the men who brought them in the presence of the accused, who ordered his guards to shoot them, saying "Those are worthless rats". The witness asserted that he saw the corpses</p>

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			<p>strewn on the ground for more than two hours and that Sayf al-Islam is the one who ordered their killing. The charge is proven against the accused based on the testimony of the citizen Sami Muhammad Abu al-'Id, who said in his testimony before the Public Prosecution that he was standing at a fruit shop on the Airport Road when Sayf al-Islam showed up, opened the door and started greeting the men "Hi, hope everything is good now that you're armed. As for those who have yet to be armed, follow me to Bab al-'Aziziya.". The charge is also proven against the accused based on the testimony of the citizen 'Azzam Abdullah Sasi, who said in his testimony before the Public Prosecution that on 17 and 18 Ramadan 2011 AD after the afternoon prayer, Sayf al-Islam got out of Bab al-'Aziziya and started addressing the people "These are rats just like al-Qaeda. You should defend your land". Then they started to distribute weapons. The witness added that he once saw and heard Sayf al-Islam say in reference to a group of corpses strewn on the ground (These are rats).</p> <p>The charge is also proven against the accused based on the testimony of the citizen al-Mahdi Abdullah al-Khazimi, who said before the Public Prosecution that the accused Sayf al-Islam was inciting people to kill the rebels in Bani Walid and the supporters of the 17 February Revolution. He also instructed his aides to kill any person at the northern entrance to Bani Walid from al-Manasilah, al-Khawazim and al-Da'ka tribes, because they hosted the rebels. The charge is also proven against the accused based on the testimony of the citizen 'Amir al-Sa'idi Khalifah, who said before the Public Prosecution that his brother was treacherously killed by Gaddafi's battalions at the command of the accused Sayf al-Islam, whom he saw standing on top of a house and saying "This belongs to rats" while the volunteers were torching the house.</p> <p>The same facts were mentioned by the following witnesses: al-Mabruk al-Khazimi, Muhammad Husayn al-Da'iki and Muhammad Salih al-Majdub. Whereas all</p>

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			<p>these testimonies prove that the accused mobilized groups of young men belonging to certain regions and tribes, armed and incited them to kill the people who oppose his father's regime. He also instructed his aides to kill the detained persons and leave their corpses strewn by the side of the road. Whereas the accused knows full well that these acts are ethically condemned, prohibited and criminalized under the law and are "dirty work". Where the accused committed this act for political reasons in order to take revenge of those who opposed his father's regime, which he thought would be delegated to him. Whereas due to the incitement of the accused and his orders, the groups that he had mobilized killed regime opponents. Therefore, this crime is proven against the accused with all its evidence and elements. Pp. 0436-0437 [...]</p> <p>[...]Whereas regarding the penalty, the accused committed a large number of serious crimes, since he ordered and incited the killing of the protesters, mobilized armed groups to that end and supplied them with weapons, provided financial and material support to the armed groups that were fighting the people, [...] Whereas the crimes committed by the accused irrevocably prove the danger he represents given his serious propensity for crime and his willingness to kill people in order to preserve what he thinks belongs to him. Whereas the accused committed his crimes within an organized methodical framework, was aware of the seriousness and consequences of his acts and sought to achieve these consequences, i.e. sabotaging cities, performing arbitrary killings and wreaking havoc in the country. Pp. 0439-0440. [...]</p>
G) The Crimes for which Saif Gaddafi is charged – Persecution: involvement in Arrest and Detention of Political Opponents			
12.	25. The Revolutionary Committees have prepared lists with names of these purported dissidents; Security Forces have subsequently arrested and sent some to prisons in Tripoli where they have been kept naked in small cells and tortured.	<p><u>PTC Decision:</u></p> <p>80. Saif Al-Islam Gaddafi's contributions amounted to, inter alia: [...] (iv) ordering the imprisonment and elimination of political dissidents; [...]</p>	<p><u>The Indictment</u></p> <p>* Defendants Nos. 1, 2, 3, 4, 5, 6, 7, 9, 10 and 23: - Incited and agreed to detain people by force and under threat. They arranged to detain thousands of Libyans from the opposition and cities rebelling against the regime and ordered their subordinates to accomplish this task. As a result, thousands of Libyans were detained; many of them are mentioned in Public</p>

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			Prosecution inquiries, statements, correspondence and evidence collection reports prepared by the established investigation committees and attached to the papers. These persons were rightfully or wrongfully accused of being opposition members and were imprisoned without trial. The accused persons also refused to abide by the instructions of investigation committees as to the release of hundreds of detainees on the grounds that their opposition to the regime was not proven. In the case of all the accused persons except Defendant No. 1, these acts were committed by a civil servant who repeatedly overstepped the boundaries of his job at different times while driven by the same criminal motive, as shown in the papers in detail. Pp. 0290-0291
H) The Crimes for which Saif Gaddafi is charged – Persecution: involvement in Public Incitement			
13.	<p>12. [...] Direct evidence of the plan to use extreme and lethal violence is corroborated by the scale, scope and duration of the attacks; the pattern of the attacks in various cities; the speeches and statements of GADDAFI, SAIF AL-ISLAM and AL-SENUSSI; [...]</p> <p>16. On 20 February, SAIF AL-ISLAM spoke on Libyan state television, refusing to recognize the Libyans' demands, blaming the unrest on "foreign agents" and threatening the country with a "civil war" "worse than Iraq and worse than in Yugoslavia" that would cause "thousands of deaths". [...]</p> <p>19. On 23 February SAIF AL-ISLAM was interviewed by the Libyan TV;</p>	<p><u>PTC Decision:</u></p> <p>26. Indeed, having already condemned the Tunisian uprising on Libyan State television on 15 January 2011, in a series of subsequent speeches, Muammar Gaddafi and his son, Saif Al-Islam, who acts as a de facto prime minister, stated their intention to suppress any kind of demonstrations against the regime. The Chamber refers to the following early speeches, among others:</p> <p>(i) on 20 February 2011, Saif Al-Islam Gaddafi declared that "the army from now [on] will have a key role in imposing security and in returning things to normal at any price" and stated "we will never give Libya up and we will fight to the last man and woman and bullet"; and [...]</p> <p>28. Furthermore, the Materials demonstrate to the requisite threshold that people who were identified as dissidents to the regime or as planning the demonstrations of the 17 February 2011 were arrested by the Security Forces to</p>	<p><u>The Indictment</u></p> <p>Defendants Nos. 1, 3 and 5 established a cyber-army and media cells that broadcast messages, speeches and pictures inciting murder online and via TV channels and satellites. Pg. 0285.</p> <p>Defendants Nos. 1, 3 and 5 prepared media content inciting hatred and killing and broadcast it on Libyan satellite channels through other people, including Yusuf Shakir, Hamza al-Tuhami Abu Khanjar, Hala al-Misrati and Mustafa Qadirbu. While Defendant No. 3 person provided the necessary material capabilities and disbursed generous funds to the hosts of these programs, Defendant No. 1 person broadcast speeches inciting hatred and civil war on Libyan satellites.</p> <p>He called Taurgha's Commander of Operations Colonel Ali Muhammad Ma'tuk al-Zubaydi and incited him to attack and kill Misratah's residents. He said in that regard: "This is the opportunity you should seize. Misratah's residents look down on you as if you were slaves. You have been following them for years while they were depriving you of everything. This is your opportunity to take revenge and recover your usurped rights from Misratah." Pg. 0286.</p>

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	<p>he further supported his father's regime and he acknowledged the killings, while stating that "those who had been killed are only hundreds". [...]</p> <p>22. In an interview that evening, SAIF AL-ISLAM made clear that the GADDAFI regime had the will to fight to maintain its power: "Plan A is to live and die in Libya, Plan B is to live and die in Libya, Plan C is to live and die in Libya." The goal was to maintain the fear of the population.</p> <p>23. In the following weeks, GADDAFI and his sons SAIF AL-ISLAM and Saadi gave a number of public speeches and media interviews reiterating their awareness of events, their command over the military and Security Forces, and their willingness to continue using violence against the protesters.</p> <p><u>Annex 7.26 to Prosecution Filing 4 (video):</u></p> <p>Crowd: *chanting * Only God, Muammar & Libya Saif Gaddafi: Guys, guys, listen, listen We need high spirits Listen, listen brothers, the people have said the police force have joined the</p>	<p>prevent them from demonstrating and that this was later acknowledged by Saif Al-Islam Gaddafi during his speech on 20 February 2011. [...]</p> <p>80. Saif Al-Islam Gaddafi's contributions amounted to, inter alia: (i) support of and contribution to the design of the plan; (ii) use of his powers and authority to ensure the implementation of the plan; (iii) ordering the recruitment of mercenaries and the mobilization of militias and troops; (iv) ordering the imprisonment and elimination of political dissidents; (v) providing resources to Security Forces; (vi) publicly addressing the population in order to threaten and scare demonstrators and mobilise Muammar Gaddafi's supporters; and (vii) contributing to the cover-up campaign, notably by denying the commission of crimes by the Security Forces and shifting the responsibility to the demonstrators.</p> <p>81. Considering the Materials provided by the Prosecution, and particularly taking into account the various speeches given by Muammar Gaddafi and Saif Al-Islam Gaddafi, the Chamber is further satisfied that there are reasonable grounds to believe that both suspects intended to bring about the objective elements of the crimes referred to by the Prosecutor in his Application. The two suspects also knew that their conduct was part of a widespread and systematic attack against the civilian population pursuant to the State policy, set up by them, of targeting civilians perceived to be political dissidents. The Chamber is also satisfied that</p>	<p>* Defendants Nos. 1, 2, 5 and 7: Publicly insulted the Libyan Arab people. Defendant No. 1 referred to protesters across the country as "rats, traitors and children" in his televised and public speeches. Upon meeting a group of regime supporters in Benghazi, Defendant No. 2 person described protesters as "dirty groups. Israeli and US intelligence agents". Defendant No. 7 person called them "rats" in a speech he gave during a ceremony on 2 March 2011 AD celebrating the establishment of the Libyan Jamahiriya, and referred to them as gangs and al-Qaeda members in a statement he gave to Reuters and the Associated Press. Defendants Nos. 1 and 5 agreed to publicly insult the Libyan Arab people, along with (Yusuf Shakir, Mustafa Qadirbu, etc.). They addressed the Libyan people on satellite channels using insults as shown in detail in the papers. Pp. 0291-0292.</p> <p><u>Facts of Case</u></p> <p>The same goes for Hala al-Misrati's show and Mustafa Qadirbu's show that both air on Libya's Channel, which is supervised by Defendant No. 1. He added that these shows created a rift among the Libyans and asserted that Defendant No. 5 provided the information used by Yusuf Shakir. Pg. 0364.</p> <p><u>Grounds of Judgment</u></p> <p>[...] Whereas the charge of instigating civil war, dismantling national unity and seeking to divide the people brought against Defendant No. 1 is established against him based on his confession that he met with the tribes' youth in order to lift their spirits and some of these meetings were broadcast on radio stations. Pg. 0429. [...]</p> <p>[...] The charge is proven against the accused based on the testimony of the citizen al-Mahdi Abdullah al-Khazimi, who said in his testimony before the Public Prosecution that the accused Sayf al-Islam was inciting people while he was in Bani Walid to fight the rebels and kill the supporters of the 17 February</p>

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	<p>protesters, but today we will prove the opposite! Do you need weapons?!</p> <p>Crowd: Yes! Yes! Yes!</p> <p>[0:55 Saif Gaddafi is brandishing a gun.]</p> <p>Saif Gaddafi: One minute please, you will receive all the support, all the facilities and weapons etc. Everything will be okay, and you will be victorious.</p> <p>Crowd: * chanting* Only God, Muammar & Libya Oh Al Jazeera you despicable, we need no other than our leader Gaddafi'.</p> <p>Saif Gaddafi: Today we're not inviting you for rice & meat' (Libyan saying meaning: we mean business). This is what I want to tell you today!</p> <p>Crowd: * chanting* We will show them (the protesters), we will bring it back (the country back to Gaddafi's power). The population needs Col. Muammar.</p> <p>[02:23]</p> <p>Saif Gaddafi: Listen, listen, this is your country... now we shall leave, and you have all the backing. But your country [???] Italians. The protestors you confront are nothing; they are bums, brats and druggies. Today brothers, Tripoli that you live in, will be cleared (of protesters).</p> <p>[03:41]</p> <p>Crowd: * chanting* With spirit and blood we support you our leader (Gadaffi)</p>	<p>there are reasonable grounds to believe that Muammar Gaddafi and Saif Al-Islam Gaddafi were both well aware of their senior leadership role within the structure of the Libyan State apparatus and of their power to exercise full control over their subordinates.</p>	<p>Revolution and torch their houses, saying, "This belongs to rats". Whereas all the aforementioned evidence prove that the accused committed crimes of sabotage, killing, instigating civil war and dismantling national unity. Whereas the accused knows full well that inciting the residents of the regions supporting his father's regime to attack anti-regime regions and inciting and arming a category of pro-regime citizens to attack anti-regime citizens are legally prohibited and criminalized because such acts undermine civil peace, wreak havoc in the country and lead to killings. Pg. 0430. [...]</p> <p>[...]Whereas the testimonies of the witnesses and the confessions of the accused prove that he played an inciting role and gave instructions and orders to the military units and armed groups that were fighting the Libyan people in al-Brigah, the Western Mountains, Misratah and al-Zawiyah. Pg. 0431 [...]</p> <p>[...]Whereas regarding the penalty, the accused committed a large number of serious crimes, since he ordered and incited the killing of the protesters, Pg. 0439 [...]</p>

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	Saif Gaddafi: I shall leave now, and I will send you weapons. Tonight I will return with more people and weapons. [04:33] [End]		
I) The Crimes for which Saif Gaddafi is charged – Persecution: Suppression of the Media			
14.	<p>30. The cover-up has also included dozens of attacks on the press since the start of the popular demonstrations with at least four casualties, 49 journalists detained and 11 assaulted. In addition there have been two attacks on news facilities. The regime has also repeatedly jammed the satellite signal of news agencies. Regarding the killed journalists, Ali Hassan Al-Jaber, an Al-Jazeera cameraman, was shot during an ambush near Benghazi on 12 March, and Mohammed Al-Nabbous, founder of the online opposition Libyan Al-Hurra TV, was also killed in Benghazi by sniper fire on 19 March.</p> <p>31. On 24 February, SAIF AL-ISLAM justified the attacks against the foreign media: "this is a media battle. They misguided the Libyans with media and false information. The information that these stations and channels are broadcasting is a lie".</p> <p>34. In addition, four journalists working for The New York Times were arrested</p>	<p>PTC Decision:</p> <p>30. There is also information which indicates that there was a campaign to cover up the alleged crimes through the following acts: (i) targeting journalists to prevent them from reporting events, and punishing them for having done so; (ii) repeatedly blocking satellite transmission of channels such as Al-Jazeera and Al-Hurra and disrupting internet and telecommunications services; (iii) confiscating laptops, cameras, mobile phones SD and SIM cards from persons stopped at checkpoints; (iv) removing dead bodies by the Security Forces including from the hospitals" and throwing of at least one body into a rubbish truck in Tripoli; (v) searching for wounded protesters in the Tripoli hospital; and (vi) leveling to the ground a Mosque which bore bullet holes as a result of an attack by the Security Forces in Al-Zawiyah; and (vii) removing evidence of mass graves in Al-Zawiyah." [...]</p> <p>43. On 15 February 2011, in Benghazi, Security Forces arrested a lawyer who was organising a protest against Gaddafi's regime scheduled for the 17th of February 2011. He was considered by Security Forces as having acted as a representative of victims of the 1996 Abo Sleem prison massacre. Activists against</p>	<p>Facts</p> <p>[...] After the protests broke out, she participated in protests in al-Zawiyah and communicated with satellite channels, such as al-Jazeera and (BBC), in order to relay the situation in al-Zawiyah. She also distributed publications at Nasser University and read with her colleagues (Riham Jubran, Amal al-Gharyani, 'Aziza Abd al-'Al, Thuraya al-Sanbani and Khawla Kazim) a statement in support of the Revolution and the Transitional Council; they filmed themselves and sent the statement online to al-Jazeera. As a result, they were arrested and found themselves confronting 'Izz al-Din al-Hanshari who insulted them, then ordered that Riham and Amal be sent to al-Mu'tasim saying "He will enjoy them tonight". She was incarcerated in 'Ain Zarah prison, stripped of her clothes and raped along with other women. Pg. 0406 [...]</p> <p>Grounds of Judgment</p> <p>[...] On the charge of complicity by agreement and instigation in the rape of and sexual intercourse with prisoners, the charge is proven against the Defendant based on the testimony of victim Mariam al-Amir Shayub, who stated that she was a social media activist and that she encouraged the protests. After the protests started, she was detained at the Intelligence Services headquarters and then she was released. But after she contacted the page of the Al-Jazeera channel, she was arrested again and placed in the prison of Ain Zarah. Pg. 0510 [...]</p>

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	<p>on March 15 by GADDAFI's Security Forces and detained in Ajdabiya. After their story was reported, SAIF AL-ISLAM pledged to release them. They were eventually released on 21 March 2011 after being slapped and punched and threatened with death for six days in detention.</p> <p>63. [...] GADDAFI, together with SAIF AL-ISLAM and AL-SENUSSI, are also engaged in a large-scale operation to cover up and obstruct the investigation of the crimes committed by their subordinates. This cover-up operation includes destruction of evidence, removal of bodies from hospitals, and targeting of journalists.</p>	<p>the regime of Muammar Gaddafi were arrested, including a journalist and other demonstrators against the Abo Sleem massacre, in Benghazi, Tripoli, Misrata and elsewhere between the 15 and 17 February 2011.</p> <p>44. On 15 February 2011, Saif Al-Islam Gaddafi ordered the arrest of a Libyan author (<u>Idriss-Al-Mismari</u>) who was based in Benghazi and had, earlier on in the day, led a demonstration and spoken to Al Jazeera. As a result of this order, he went into hiding. Several other writers, journalists and alleged dissidents were reportedly arrested or missing in Tripoli and elsewhere the following days.</p>	
J) The Crimes for which Saif Gaddafi is charged – Persecution: The use of Torture			
15.	<p>25. The Revolutionary Committees have prepared lists with names of these purported dissidents; Security Forces have subsequently arrested and sent some to prisons in Tripoli where they have been kept naked in small cells and tortured. [...]</p> <p>27. The arrests and detentions have been accompanied by cases of torture and/ or inhuman acts. Methods used to torture alleged dissidents have included tying electric wires around victims' genitals and shocking them with electricity and whipping victims with an electric wire</p>	<p><u>PTC Decision:</u></p> <p>46. According to several reports, once taken into custody, protesters were subjected to torture. One method entailed tying electric wires around their genitals and then turning electricity on. The other (known as Fallga) entailed tying their feet with a rope connected to a stick and then turning the person upside down and whipping him with an electric wire.</p> <p>47. Abductions and subsequent torture of family members of alleged dissidents who could not be found have also been reported. In Zliten, near Misrata, a list with names of a large number of demonstrators was compiled, many of whom</p>	<p><u>Facts</u></p> <p>[...] When the citizen al-Husayn Muhammad Abu Zahir, the father of the victim (al-Hassan Abu Zahir), was heard, he said that his son (al-Hassan) participated in anti-regime protests then engaged in armed action. As a result, his son was detained in a prison on al-Shawk Rd. for the External Security Agency and on 23/8/2011 AD, he released his son when rebels raided the prison. He found his son hanging from the ceiling of the prison cell naked with bruises on his body; a (BBR) tube was inserted in his anus and he was raped. The witness added that he found in the prison 12 detained women, including 4 naked, who were provided with clothes by their neighbors. He also released from the prison 10 children who were detained there in order to force their parents to surrender themselves, including the 10-year-old (Khalid Badda), whose father was a doctor treating the injured rebels and was arrested and killed, so he took the child to his family in al-Zawiyah. The witness</p>

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	<p>after tying them upside down with a rope connected to a stick (a method of torture known as Fallga). These methods have both been used in the current events.</p> <p>32. Most of the journalists arrested are currently under government custody or missing. Those released as a result of international pressure have reported torture and ill-treatment.</p> <p>33. For example, on 7 March 2011, a three-man team of BBC journalists was detained in a military barrack in Tripoli. Members of this team were beaten with fists and rifles, hooded and subjected to mock executions by the Security Forces. The journalists were lined up against a wall and a member of the government forces put a sub-machine gun to each person's neck. During their detention, the BBC team saw evidence of torture against other Libyan detainees.</p>	<p>were subsequently arrested.</p> <p>48. The Materials presented by the Prosecutor further establish reasonable grounds to believe that on 24 February 2011, Security Forces raided a house in Tripoli. When they found a list of frequencies of banned television news channels, they blindfolded, hit and abducted the owner together with his neighbour. He was imprisoned, subjected to different forms of physical and verbal abuse and forced to sign a document stating that he "would not commit any further acts of civil disorder." Once his blindfold was removed, the prisoner saw about 50 detained people in the same room. In this respect, the Chamber further notes that internet and telephone communications were monitored by the Secret Service with a view to identifying individuals for arrest.</p>	<p>finally said that his son lost his masculinity due to the treatment he was subjected to. When the testimony of the victim (al-Hassan Husayn Abu Zahir) was heard, he said that he was imprisoned three times for participating in the protests and he was imprisoned the last time on 17/7/2011 AD when he was caught in possession of explosives used for hand-made bombs. He was placed in (Bodrum) prison, which belongs to a Turkish company used by the External Security Agency. He was tortured in prison, since he was shot in his thigh and the back of his right hand. A detonator of a hand-made bomb was blown up between the fingers of his left hand, thus amputating his ring finger and middle finger. He also received burns. The Public Prosecution noticed these injuries when examining the witness. Cigarettes were also put out in his left hand, he was hung by the ceiling of his prison cell and had a tube inserted in his anus after he refused to rape a girl they had brought him. They said "Fuck her or you will be fucked" and he refused to comply, so they raped him, as they did with others. Pg. 0405 [...]</p>
k)Geographical Location of Crimes			
16.	<p>I. Pursuant to Article 58(1) of the Rome Statute, the Prosecution applies to Pre-Trial Chamber I for the issuance of arrest warrants against Muammar Mohammed Abu Minyar GADDAFI ("GADDAFI"), SAIF AL-ISLAM GADDAFI ("SAIF ALISLAM") and Abdullah AL-SENUSSI ("AL-</p>	<p><u>PTC Decision:</u></p> <p>32. On the basis of the Application as well as the Materials presented, the Chamber is further satisfied that there are reasonable grounds to believe that, in furtherance of the abovementioned State policy, from 15 February 2011 until at least 28 February 2011, the Libyan Security Forces carried out throughout Libya, most notably in Benghazi, Misrata and Tripoli</p>	<p><u>Grounds of Judgment</u></p> <p>[...] Whereas the fact that the accused issued instructions to dispatch boats and speedboats after supplying them with weapons in order to intercept aid vessels heading towards the besieged cities, such as Misratah and Benghazi, during the Libyan Revolution is deemed a criminal act because the accused thereby deliberately cut off food and medication to the residents of these cities as a way of revenge and punishment. Whereas the accused knew that his acts would necessarily entail arbitrary</p>

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	SENUSSI") for their individual responsibility for the crimes against humanity of persecution based on political grounds and murder committed from 15 of February 2011 onwards by Libyan "Security Forces", meaning all military, intelligence and police forces under GADDAFI's authority, in [...] Misrata [...]	where more than 50% of the Libyan population resides, an attack against the civilian population taking part in demonstrations against Muammar Gaddafi's regime or perceived to be dissidents.	killings and havoc in the besieged cities. Therefore, this crime is established against the accused with all its elements. Pg. 0431 [...] [...]Whereas the testimonies of the witnesses and the confessions of the accused prove that he played an inciting role and gave instructions and orders to the military units and armed groups that were fighting the Libyan people in al-Brigah, the Western Mountains, Misratah and al-Zawiyah. Whereas all these regions were indisputably besieged and bombed with all types of heavy weapons, such as tanks, Grad rocket launchers, rocket launchers and mortar shells, which destroyed the infrastructure of the cities and killed and displaced its civilian unarmed residents. Pg. 0431 [...]
17.	1. Pursuant to Article 58(1) of the Rome Statute, the Prosecution applies to Pre-Trial Chamber I for the issuance of arrest warrants against Muammar Mohammed Abu Minyar GADDAFI ("GADDAFI"), SAIF AL-ISLAM GADDAFI ("SAIF ALISLAM") and Abdullah AL-SENUSSI ("AL-SENUSSI") for their individual responsibility for the crimes against humanity of persecution based on political grounds and murder committed from 15 of February 2011 onwards by Libyan "Security Forces", meaning all military, intelligence and police forces under GADDAFI's authority, in Tripoli , [...]	<u>PTC Decision:</u> 32. On the basis of the Application as well as the Materials presented, the Chamber is further satisfied that there are reasonable grounds to believe that, in furtherance of the abovementioned State policy, from 15 February 2011 until at least 28 February 2011, the Libyan Security Forces carried out throughout Libya, most notably in Benghazi, Misrata and Tripoli where more than 50% of the Libyan population resides, an attack against the civilian population taking part in demonstrations against Muammar Gaddafi's regime or perceived to be dissidents.	<u>Facts</u> [...] When the testimony of the citizen Ali'Ayyad Mas'ud al-Bishti was heard, he said that Sayf al-Islam is responsible for all the killings, lootings and thefts in Bani Walid and that he was the real governor of the city. When the testimony of Colonel Ali 'Ayyad al-Bishti, Director of the Administrative Affairs Department at the Intelligence Services, was heard, he said that during the 17 February Revolution, the Central Security Operations Room was established. All security services were affiliated with the Room, which also had a derivative, i.e. the Operations Room in Tripoli . According to the security plan, the revolutionaries and the supporters of the former regime were supposed to gather at Green Square in order to prevent the protesters from organizing a sit-in. The protesters were supposed to be countered by the security services, the People's Guard volunteers, the People's Associations, the Revolutionary Guard and the Revolutionary Committees. Live fire was only used based on explicit commands from higher-ranked leaders. Pg. 0408 [...]
18.	1. Pursuant to Article 58(1) of the Rome Statute, the Prosecution applies to Pre-	<u>PTC Decision:</u> 32. On the basis of the Application as well as the	<u>Grounds of Judgment</u> [...] Whereas the fact that the accused issued instructions to

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	<p>Trial Chamber I for the issuance of arrest warrants against Muammar Mohammed Abu Minyar GADDAFI ("GADDAFI"), SAIF AL-ISLAM GADDAFI ("SAIF ALISLAM") and Abdullah AL-SENSUSSI ("AL-SENSUSSI") for their individual responsibility for the crimes against humanity of persecution based on political grounds and murder committed from 15 of February 2011 onwards by Libyan "Security Forces", meaning all military, intelligence and police forces under GADDAFI's authority, in Benghazi [...]</p>	<p>Materials presented, the Chamber is further satisfied that there are reasonable grounds to believe that, in furtherance of the abovementioned State policy, from 15 February 2011 until at least 28 February 2011, the Libyan Security Forces carried out throughout Libya, most notably in Benghazi, Misrata and Tripoli where more than 50% of the Libyan population resides, an attack against the civilian population taking part in demonstrations against Muammar Gaddafi's regime or perceived to be dissidents</p>	<p>dispatch boats and speedboats after supplying them with weapons in order to intercept aid vessels heading towards the besieged cities, such as Misratah and Benghazi, during the Libyan Revolution is deemed a criminal act because the accused thereby deliberately cut off food and medication to the residents of these cities as a way of revenge and punishment. Whereas the accused knew that his acts would necessarily entail arbitrary killings and havoc in the besieged cities. Therefore, this crime is established against the accused with all its elements. Pg. 0431 [...]</p>
L) Temporal Scope of Crimes			
19.	<p>3. The Prosecution submits that on the basis of the available evidence, and without prejudice to other possible crimes within the jurisdiction of the Court that will be further investigated, there are reasonable grounds to believe that as of 15 February 2011, GADDAFI, SAIF AL-ISLAM and AL-SENSUSSI committed the crimes against humanity of murder under Article 7(1)(a) and persecution under Article 7(1)(h) of the Statute. The Prosecution further submits that there are reasonable grounds to believe that GADDAFI is responsible for the commission of the crimes described in</p>	<p><u>Warrant of Arrest:</u></p> <p>CONSIDERING accordingly that there are reasonable grounds to believe that Saif Al-Islam Gaddafi is criminally responsible as an indirect co-perpetrator, under article 25(3) (a) of the Statute, for the following crimes committed by Security Forces under his control in various localities of the Libyan territory, in particular in Benghazi, Misrata, Tripoli and other neighboring cities, from 15 February 2011 until at least 28 February 2011 [...]</p> <p><u>PTC Decision:</u></p> <p>7. In relation to the jurisdiction <i>ratione temporis</i>,</p>	<p><u>The Indictment</u></p> <p>After reviewing the papers and hearing the pleading and deliberation, and whereas the Prosecution accused the following persons of committing various acts across Libya on 15/2/2011 AD and afterwards:</p> <p>*Defendants Nos. 1 through 34:</p> <p>- Committed within the territory of the State arbitrary acts of sabotage, looting and homicide across the country in order to undermine State security. Defendants 1, 2, 3, 4, 8, 10, 11, 18, 31 and 38 provided financial support. Pg. 0284 [...]</p>

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	this Application through other persons as an indirect perpetrator, and SAIF AL-ISLAM and AL-SENUSSI are responsible as indirect co-perpetrators, all in accordance with Article 25(3)(a).	<p>the Chamber notes that, by Resolution 1970 of 26 February 2011, the Security Council referred the situation in Libya since 15 February 2011 to the Prosecutor, pursuant to article 13(b) of the Statute. It further notes that, more specifically, the Prosecutor refers in his Application to acts which were allegedly committed from 15 February 2011 to 28 February 2011 at the latest. [Footnote 5]</p> <p>Footnote 5: The Chamber notes that the Prosecutor in his Application referred at times to different time frames for the purposes of his Application ("from 15 of February 2011 onwards", para.1 and Count 1 and Count 2 at page 16; "As of 15 February up until the day of this Application", para. 24). However, the Chamber notes in the section on the underlying acts (Prosecutor's Application, paras. 92-135) the latest act referred to by the Prosecutor allegedly occurred on 28 February 2011 (para.130 (ix) in relation to Count 2).</p> <p>DECIDES to issue warrants of arrest against Muammar Gaddafi and Saif Al-Islam Gaddafi for their alleged responsibility under article 25(3)(a) of the Statute for the following crimes against humanity committed across Libya from 15 February 2011 until at least 28 February 2011:</p>	

(2) Areas where the Libyan Proceedings against Dr. Saif Al-Islam Gadafi covered wider conduct than alleged in the ICC case

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		A)The Use of Narcotics	
1.			<p><u><i>The Indictment</i></u></p> <p>Defendants Nos. 1, 2, 4, 5, 6, 12, 15 and 34 distributed drugs and stimulants among battalion members and volunteers. Pg. 0285.</p> <p>* Defendants Nos. 1, 2, 3, 4, 5, 6, 12, 14, 15 and 34:</p> <p>(1) Acquired and distributed drugs and stimulants by introducing them into the food and drinks of their subordinates as they were attacking protesters and cities rebelling against the regime. These substances were found among detained and injured persons and in the victims' clothes at their work stations. Upon inspection, it turned out that the seized substances are listed under Item (12) of Table (1) and Item (9) of Table (2) concerning narcotics and Item (109) of Table (2). All these items are set forth in the Narcotics and Psychotropics Control Law. Defendant No. 3 person also acknowledged that the second had ordered that a quantity of DF-118 with a value estimated at 2 to 4 million LYD be brought from a neighbouring European country. Defendant No. 12 person introduced these substances through a sea port while the second acknowledged their distribution, as established by the attached expert reports and the Libyan Medical Supplies Organisation's payment orders. These crimes were committed during war time and caused great damage, as described in detail in the papers.</p> <p>(2) Acquired and kept possession of a large quantity of drugs and stimulants at their workplace. Upon inspection, it turned out that the seized substances are listed under Item (12) of Table (1) and Item (9) of Table (2) concerning narcotics and Item (109) of Table (2). All these items are set forth in the Narcotics and Psychotropics Control Law. Defendant No. 2 person</p>

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			acknowledged possession of DF-118, as established by the attached expert reports and the Libyan Medical Supplies Organisation's payment orders. These crimes were committed during war time and caused great damage, as described in detail in the papers. Pg. 0289.
B) Sexual Violence			
2.			<p align="center"><u>The Indictment</u></p> <p>* Defendants Nos. 1, 2, 3, 4, 5 and 6: - Incited and agreed to rape and threaten others. They used rape as a method to crush the 17 February Revolution and incited their subordinates to commit rape. They raped men and women, whose names are listed in the papers, and other unidentified protesters and opposition members detained in prisons, or raided houses by force. They used force and armed threats during these recurrent acts, which took place at different times and were driven by the same criminal motive, as established by the attached forensic and medical reports. Pp. 0289-0290.</p> <p align="center"><u>Facts</u></p> <p>When the testimony of Dr. Muhammad 'Umar al-Muhayshi, a gynecologist at Misratah Central Hospital, was heard, he said that five field hospitals were set up in Misratah during the Revolution and received dismembered corpses and amputated body parts. As a result of the arbitrary shelling, many residents, including women, were injured. Twenty-two persons were injured in their genital organs. The field hospital in Zawiyah al-Mahjub received dozens of rape victims. The witness personally examined 34 of these cases, as he examined some raped women in the gynecology ward of al-Nur Hospital and others in his private clinic, including two twin girls that were raped and one of</p>

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			<p>them was impregnated. A woman was also raped before the eyes of her children because her husband and brothers were rebels and her 12-year-old daughter was subject to an attempted rape. He also examined a raped woman from Azriq who was raped by her caregiver, which caused a tear in her rectum and led to urinary incontinence. Two women were also kidnapped. The witness added that he treated all these cases from the complications of rape such as bleeding, wounds and [illegible]. The witness also said that the Islamic scholar Mustafa Abu Rawi proposed an abortion; however, he refused on the grounds that it is illegal. Then a Fatwa was issued by Misratah's Sheikhs, whereby they authorized abortions for raped women. Based on this Fatwa, the witness conducted two abortions for two raped women using (Misoprostol). He also carried out hymen reconstruction surgery for raped women. The witness added that by discussing the rape cases, he learned that the officers instructed soldiers to commit rape. A woman in niqab was raped before her children by a dark-skinned soldier after her strength failed her and she asked him not to uncover her body, however, he did using a spear and said "The women and girls of Misratah should be raped". The witness asserted that he saw many rape scenes that the battalion members used to save on their mobiles; however, these mobiles were torched later and disposed of. He also saw a scene for a young man from the Zari' family being executed by Gaddafi battalions and asked about his sisters and the girls in the region. He also saw some arrested battalion members confessing that they committed rapes, including a person from Gharyan who confessed to raping four women based on the instructions of Ali al-Zubaydi. The witness finally said that he opened medical files for all the cases that he treated, however, the families of these cases requested the withdrawal of these files due to social</p>

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			<p>considerations. Pp. 0395-0396 [...]</p> <p>[...] When the testimony of the citizen Thurayya Muhammad Qadi Abd al-Karim was heard, she said that she was raped by the military men (al-Hamali Husayn Gaddafi and 'Isam al-Wahshi) after independence flags were found in her apartment. She said that the first one filmed the rape and that one of the military men said that he would show the video to Sayf al-Islam in order to get a (Chevrolet). Pg. 0412. [...]</p> <p style="text-align: center;"><u>Grounds of Judgment</u></p> <p>[...] Whereas the accused has undisputedly revived old conflicts and grudges between the people and created new rivalries between the residents of the Libyan cities and regions, given the atrocities committed by the volunteers under his command as a result of his incitement, such as killings, rape, kidnapping, looting funds, sabotage and house torching, all of which targeted the residents of rebel cities. Therefore, this crime is established against the accused with all its evidence and elements. Pg. 0430 [...]</p> <p>[...] Whereas the charge of conspiracy by incitement and agreement to rape others as a method to extinguish the Revolution is established against the accused based on the testimony of Dr. (Muhammad 'Umar al Muhayshi), a gynecologist at Misratah Central Hospital, who said in his testimony before the Public Prosecution that the field hospital in al-Zawiyah al-Mahjub received dozens of rape cases and he treated 34 of these cases; he examined the raped women at al-Nur Hospital, including two twin girls who were raped and one of them got pregnant as a result. He also treated another woman who was raped before the eyes of her children and a girl from Azriq who was anally raped, which</p>

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			<p>caused a tear in her rectum and led to urinary incontinence. The witness also said that he performed abortions on a number of raped women after a group of Sheikhs from Misratah, namely (Sheikh 'Umar al-Bibi and Sheikh Muhammad Jaba'ur) issued a Fatwa whereby they authorized abortions for raped women. Based on this Fatwa, the witness performed abortions by injecting these women with (Misoprostol). The witness added that he saw some members of Gaddafi's battalions who were caught confess to rape crimes, including a person from Gharyan who confessed that he raped four women based on the instructions of Colonel Ali al-Zubaydi. The witness finally said in his testimony that he saw many rape videos kept by the members of the battalions on their mobile phones and destroyed by the rebels for social considerations. The charge is also proven against the accused based on the testimony of the victim (Thurayya Muhammad Abd al-Karim), who said in her testimony before the Public Prosecution that she was raped by a soldier called al-Hamali Husayn Gaddafi and another called 'Isam al-Wahishi and that the first man filmed the rape and she heard him say that he would show the video to Eng. Sayf al-Islam so that he would get a (Chevrolet). The charge is also proven against the accused based on the testimony of the victim Maryam Shayyub, who said in her testimony that she was arrested and raped in the detention center and she saw a 13-year-old girl who was detained with her mother being raped by inserting a (Pepsi) bottle in her vagina and she knew that the girl was the daughter of the citizen (Faraj Umayma) from Misratah. The charge is also proven against the accused based on the testimony of the victim Rabab Abd al-Rahman Halab, Najah Yunus al-Hawash, Fayruz Khalifah Mas'ud, Najwa Abd al-Hamid and Najat al-Kabir, who all testified that they are from Zuawarah and were raped by Gaddafi's battalions. The charge is also proven</p>

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			<p>against the accused based on the statements of the soldier Senior Corporal Husayn Abd al-Qassim al-Mabruk, who said in his testimony before the Association of Human Rights Activists that he is part of the Bani Walid Guards Brigade and that on 28/4/2011 AD, he was assigned along with a group of military men by the Brigade Commander Brigadier Muhammad Husayn Abu Zayd a military mission in Misratah and while they were at Tripoli St., a group of soldiers seized the property of people and committed rapes. Among those who committed rape is the soldier Usama 'Ammar 'Uraybi who was caught kneeling over a girl he threw on a bed while she was shouting with her private parts exposed. The charge is also proven against the accused based on the statements of the soldier Salah Mustafa Abdullah al-Shushan, who said in his testimony before the Association of Human Rights Activists, whose report was attached to the case file and documented in the CDs related to the case, that he is a member of the Military Units' Infantry Division and that they were instructed to move to al-Dafniyah. Once there, they ran out of supplies and complained about the matter to Brigadier al-Qasi and his aide Major Akram, who said they would bring food from the residents; at night, they went in three cars and brought food from the residents. On the following days, they went out with Brigadier al-Qasi and his aide Major Akram at night and raided houses. Brigadier al-Qasi instructed them to rape the girls and he instructed him personally to rape a girl, so he threw her on the ground, knelt over her and inserted his penis in her vagina while she shouted. Brigadier al-Qasi and Major Akram also raped two girls whose shouting was heard from outside the room. Salih al-Dawi did the same.</p> <p>- Whereas these testimonies irrevocably prove that rape was adopted as a method in the war launched by</p>

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			<p>Gaddafi's regime against the Libyan rebels and to punish rebel cities. It was an agreed-upon and undisclosed policy adopted by regime figures handling the war against the people within the Supreme Security Operations Room, where the accused Sayf al-Islam had the final say, as previously mentioned by the witnesses, who said that he was the one who issued instructions and commands to the commanders of the battalions and armed groups that invaded the Libyan cities such as Zuwarah, al-Zawiyah, Misratah and other cities where atrocities were committed, including rape. Whereas the accused knew given his political status that these are war crimes and that rape is ethically condemned, prohibited and criminalized under the law. Whereas the accused incited and approved rape, the proof of which is that one of the assailants, who is a witness, said after filming his crime that he would show the video to the accused Sayf al-Islam so that he would get a car in return. Therefore, this crime is established against the accused and requires him to be convicted. Pp. 0437-0439 [...]</p> <p>[...]He also ordered that sea ports be besieged, incited rape in the besieged cities and approved such policy, Pg. 0439 [...]</p>
C)Looting / Confiscation of property			
3.			<p><u>The Indictment</u></p> <p>Defendants Nos. 1, 3 and 4:</p> <ul style="list-style-type: none"> - Incited and agreed to seize others' movable property by coercion. They appropriated food and household items from national and foreign private companies and sold them in return for cash. Their subordinates were instructed to carry out these acts and therefore raided at gunpoint the premises and warehouses of al-Muhit Company for the manufacturing and marketing of

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			<p>electrical and household appliances and seized the movables described in the papers in quantitative and qualitative terms and owned by the victim Khalid Muhammad al-Jatlawi. They also raided the premises of Mediterranean Company, which imports means of transportation, equips work stations and factories and provides occupational safety tools. They appropriated the vehicles described in the papers in quantitative and qualitative terms and owned by the victim Muhammad Ali Ramadan Qadah, after beating and detaining the company workers. The violent theft was perpetrated by more than 3 persons carrying weapons in full display and reoccurred at different times with the same criminal motive, as shown in detail in the papers. Pg. 0290 [...]</p>
D) Damage to public property, resources & services			
4.			<p><u>The Indictment</u></p> <p>Defendants Nos. 1, 2, 3, 4, 5 and 7 agreed in a meeting on 3/3/2011 AD to cut off water and power supply to cities rebelling against the regime (Misratah, al-Zawiyah and Zintan) and Defendant No. 5 person implemented the decision on the ground.</p> <p>Defendants Nos. 1 and 3 cut off oil supplies from the eastern region.</p> <p>Defendants Nos. 1 and 2 tasked a team of military engineers that blew up the Booster Station in the Arabian Gulf Oil Company's Sidrah field and killed its guards. Pg. 0285.</p> <p>Defendants Nos. 1, 2, 3, 4, 8, 11, 15, 18, 20, 31, 35, 36, 37 and 38:</p> <ul style="list-style-type: none"> - Caused serious damage to public funds by conducting financial transactions that contravene the customary procedures followed in the State's Financial System, since the supplier companies did not provide detailed

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			<p>invoices and the concluded contracts violated the Administrative Regulation and the Oversight and Expenditure Law in contravention of the Law of the Financial System of the State, and Budget, Public Accounting and Storehouses Regulation and the Current Budget Law. The serious damage caused by each accused person to public funds as a result, is assessed in the attached Financial Expertise Report, as shown in detail in the papers. Pg. 0291.</p> <p style="text-align: center;"><u>Facts</u></p> <p>[...] Whereas the sabotage and arbitrary killing charge brought against the accused, since along with the second and sixteenth fighter aircraft he would strike civilian targets and drop prohibited mines, is established against the accused based on the testimony of Mukhtar al-'Arabi al-Ja'fari, al-Qurdabiya Air Base Commander, who said in his testimony before the Public Prosecution that two (Sukhoi) jet planes loaded with 250-kg bombs were tasked from al-Qurdabiya Air Base in order to bomb Benina Airport and the mission was executed. Two helicopters were also tasked with striking the antennas of Misratah Local Radio Station and Defendant No. 1 called him and inquired why the aerial bombing stopped. The charge is also proven against the accused based on the testimonies of the victim Muhammad Uthman al-Mahruq and Muhammad Nuri al-Sharif, which are recorded in the evidence collection report prepared by the Military Intelligence Services in Misratah. The witnesses said in their testimonies that they sustained serious injuries because mines were dropped from a helicopter over the Port of Misratah and blew up beneath their car while they were guarding the port. The charge is also proven against the accused based on the testimonies of the citizens Muhammad Faraj 'Uwayn and Sa'id Muhammad Qusaybat, which</p>

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			<p>are recorded in the same evidence collection report. The witnesses said they were at the port when they heard the sound of a helicopter overhead then an explosion followed by another and when they came to the explosion site, they found the victim Faysal al-Mahruq severely injured. Muhammad al-Sharif was also hit by shrapnel in his right foot and chest. Then they knew that a helicopter for Gaddafi's regime with the Red Cross logo dropped the mines over the port. Whereas the testimonies of the witnesses prove that military aircraft struck civilian targets such as airports, seaports and the radio, using bombs, missiles or dropped mines. Whereas the accused Sayf al-Islam was an accomplice to the crime since he agreed to commit this act and incited others to that end based on the testimony of the witness Mukhtar al-'Arabi al-Ja'fari, who said that Sayf al-Islam called him and inquired why the aerial bombing stopped. Whereas the accused knows that using military aircraft to strike civilian targets is a criminalized act under the law since it causes the destruction of national infrastructure and people's properties and the arbitrary killing of workers at such utilities. Whereas the use of aircraft caused the destruction of these utilities and injured their workers, which represents the sabotage and arbitrary killing crime. Whereas the accused was an accomplice to the crime since he agreed to commit this act and incited others to that end. Therefore, the charge is proven against the accused. Pg. 0432 [...]</p>
E)Cover up operation			
5.	<p>29. Cemeteries and burial sites have been destroyed and bodies dug up, loaded on trucks and taken away. On 30 April, GADDAFI gave a speech demanding that those who claim that the regime was killing its own people to show him the bodies or autopsies or burial sites. Mosques that had been destroyed by Security Forces were levelled to the</p>	<p><u>Warrant:</u></p> <p>CONSIDERING that, although the exact number of casualties resulting from the attack cannot be known due to a cover-up campaign implemented in order to conceal the commission of crimes by the</p>	

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	<p>ground to erase any trace of violence.</p> <p>[...]63. [...] GADDAFI, together with SAIF AL-ISLAM and AL-SENUSSI, are also engaged in a large-scale operation to cover up and obstruct the investigation of the crimes committed by their subordinates. This cover-up operation includes destruction of evidence, removal of bodies from hospitals, and targeting of journalists.</p>	<p>Security Forces, there are reasonable grounds to believe that, as of 15 February 2011 and within a period of less than two weeks in February 2011, the Security Forces killed and injured as well as arrested and imprisoned hundreds of civilians; [...]</p> <p>CONSIDERING that, under article 58(1) of the Statute, the arrest of Saif Al-Islam Gaddafi appears necessary at this stage to (i) ensure his appearance before the Court; (ii) ensure that he does not continue to use his power to obstruct or endanger the investigation, in particular by orchestrating the cover-up of the crimes committed by the Security Forces; and to (iii) prevent him from continuing to use his power and control over the Libyan State apparatus to continue the commission of crimes within the jurisdiction of the Court;</p> <p><u>PTC Decision:</u></p> <p>40. The Chamber notes that the circumstances of the killings and shootings make it difficult to provide an accurate number of those killed. As previously found by the Chamber, there was a campaign to cover up the events, as a result of which a considerable number of dead bodies are reported to have disappeared from hospitals and streets. An unknown number of corpses were reportedly burnt. For example, it is reported that, on the road in Arada, near Souq al-Jom'a bridge, at least 20 burnt bodies with bloodied clothes were found. It is further reported that the dead and wounded were removed from the streets, in some cases by Security Forces and in others by relatives of the victims.</p>	

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F)The Scope of the Case - Suppression of Demonstrators vs Armed Conflict (end Feb. 2011)			
6.	<p>2. [...] The incidents described in this Application refer to crimes against humanity committed against civilians and do not include war crimes committed during the armed conflict that started at the end of February.</p> <p>10. SAIF AL-ISLAM took an active role in the recruitment of foreign mercenaries, who were placed under the command of various structures within the Security Forces, and the provision of resources for the Security Forces. [...]</p>	<p><u>PTC Decision:</u></p> <p>(vii) also on 20 February 2011, as well, on the way to Bab al-Azizya, in Al Syahya, Gergaresh road. Security Forces drove four vehicles into a crowd of civilian protesters and shot at them at close range causing the deaths of approximately 270 people; [...]</p> <p>(xii) on the same day, in Maydan al-Jaza'ir Square, the Security Forces fired teargas and bullets from several land cruiser vehicles into a crowd of civilians who were coming out of a mosque; the civilians who, witnessing this scene from their windows and balconies, reacted by shouting that the Security Forces were murderers, were, also shot; it is also reported that the Security Forces hid in ambulances and killed those who sought assistances; during this event, at least 10 people were killed;</p> <p>80. Saif Al-Islam Gaddafi's contributions amounted to, inter alia: (i) support of and contribution to the design of the plan; (ii) use of his powers and authority to ensure the implementation of the plan; (iii) ordering the recruitment of mercenaries and the mobilization of militias and troops; [...] (v) providing resources to Security Forces; [...]</p>	<p><u>The Indictment</u></p> <p>Defendants Nos. 1, 2, 3, 4, 5, 7, 8, 9, 11, 17, 18, 22, 30, 31, 32:</p> <p>(1) Committed acts aiming to ignite a civil war in the country, fragment national unity and sow dissension among Libyan citizens. Defendants Nos. 1, 2, 3, 4, 5, 7, 8, 9, 18, 22, 30 and 32 formed armed tribal groups and provided them with various weapons and logistic support, as well as salaries, grants, benefits and rewards in order to attack and kill the members of neighboring and distant tribes and regions rebelling against the regime. Pg. 0286.</p> <p>[...] * Defendants Nos. 1, 2, 5 and 7:</p> <p>Publicly insulted the Libyan Arab people. Defendant No. 1 referred to protesters across the country as "rats, traitors and children" in his televised and public speeches. Upon meeting a group of regime supporters in Benghazi, Defendant No. 2 person described protesters as "dirty groups. Israeli and US intelligence agents". Defendant No. 7 person called them "rats" in a speech he gave during a ceremony on 2 March 2011 AD celebrating the establishment of the Libyan Jamahiriya, and referred to them as gangs and al-Qaeda members in a statement he gave to Reuters and the Associated Press. Pg. 0291 [...]</p> <p><u>Facts</u></p> <p>[...] When the testimony of Isma'il Muhammad al-Karami, Head of the Anti-Narcotics Agency, was heard, he said that at the beginning of March 2011 AD, he received three Tramadol-loaded containers via al-Khums Port and large quantities of these narcotics were</p>

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			<p>requested by the Security Operations Room at the Intelligence Services. Pg. 0397 [...]</p> <p>[...]When the testimony of 'Uthman Idris al-Tahir Chadi was heard, he said that in April 2011 AD, he was at a work site in al-Zawiyah and he volunteered to fight the rebels in return for a 250 LYD-fee. Pg. 0397 [...]</p>
G) Bombing of ports, aid vessels and other targets			
7.			<p><u>The Indictment</u></p> <p>Defendants Nos. 1, 2, 3 and 21 used civilian tugboats, speedboats and boats in order to booby-trap seaports, attack aid vessels, bomb broadcast towers (radio broadcast towers in Misratah) and strike civilian targets (The Benghazi Court and al-Tahrir Square). Pp. 0284-0285.</p> <p>Defendants Nos. 1 and 2 instigated the arbitrary bombing of cities rebelling against the regime and used Scud missiles with widescale destructive power to that end. Pg. 0285.</p> <p><u>Facts</u></p> <p>[...] He confessed that Muammar Gaddafi requested that he, Mansur Daw and others set up a plan to blow up the prisons containing rebels and attribute that act to NATO aircraft. He admitted that he held a meeting at the Rixos Hotel with the fourth and sixth accused and a person called Shu'ayb al-Farjani, who informed him that he had prepared the air bombs and vehicles, and added that Defendant No. 1 wanted to execute that plan. Pg. 0365. [...]</p> <p>[...] When the testimony of Hamid Abdullah al-'Azumi, Director of Security for Benghazi, was heard, he said</p>

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			<p>that on 14/2/2011 AD, he attended a meeting presided by Defendant No. 2, who requested tighter control of the city. [...] Regarding the booby-trapped vehicles, the witness said that these operations were conducted with the knowledge of Sayf al-Islam, Abdullah al-Senussi and Abd al-Salam Hamuda. Pg. 0399. [...]</p> <p>[...] When the testimony of Khalid Abd al-Haq al-Sharif, the Director of the Office of Major General al-Barani Ashkal, Mohammed Magariaf Battalion Commander, was heard, he said that [...] The witness also said that the accused Sayf al-Islam used to hold meetings with security and military leaders, including his meeting with Shukri Ghanim where he told the latter "How was the oil pipeline between al-Hariqa port and Tubruq bombed?". This meeting was attended by the accused al-Baghdadi al-Mahmudi. Pg. 0409. [...]</p> <p>[...] When Defendant No. 1, Sayf al-Islam Gaddafi, was re-interrogated, [...] He confessed that he equipped and booby-trapped vehicles and sent them to Benghazi and one of them blew up in front of the Tibesti Hotel. Pg. 0412. [...]</p> <p style="text-align: center;"><u>Grounds of Judgment</u></p> <p>[...] Whereas the sabotage and arbitrary killing crime brought against the accused since he used tugboats, speedboats and boats to booby-trap ports, attack aid vessels and bomb antennas, is established against him based on the statements of Defendant No. 10, Mundhir al-Ghanimi, who told the Public Prosecution that he commissioned boats and tugboats, based on the instructions of Sayf al-Islam Gaddafi, to sail towards the Port of Misratah in order to intercept aid vessels so as to prevent them from accessing the city and to eventually besiege the city. The charge is proven</p>

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			<p>against the accused based on his confession that he instructed the accused Mundhir al-Ghanimi to commission boats and tugboats in order to execute combat missions in front of the Port of Misratah and the Port of Benghazi so as to intercept aid vessels and weapons-loaded tugboats and bomb the antenna of Misratah Local Radio Station. The charge is also proven against the accused based on the testimony of Tariq Ahmad Bin Ghazi, who said in his testimony before the Public Prosecution that he was assigned the mission of navigating the tugboat Inqad (1) to the coast of Azriq in Misratah in order to bomb the antennas of Misratah Local Radio Station. Whereas the fact that the accused issued instructions to dispatch boats and speedboats after supplying them with weapons in order to intercept aid vessels heading towards the besieged cities, such as Misratah and Benghazi, during the Libyan Revolution is deemed a criminal act because the accused thereby deliberately cut off food and medication to the residents of these cities as a way of revenge and punishment. Whereas the accused knew that his acts would necessarily entail arbitrary killings and havoc in the besieged cities. Therefore, this crime is established against the accused with all its elements. Pg. 0432. [...]</p> <p>[...] Whereas the testimonies of the witnesses and the confessions of the accused prove that he played an inciting role and gave instructions and orders to the military units and armed groups that were fighting the Libyan people in al-Brigah, the Western Mountains, Misratah and al-Zawiyah. Whereas all these regions were indisputably besieged and bombed with all types of heavy weapons, such as tanks, Grad rocket launchers, rocket launchers and mortar shells, which destroyed the infrastructure of the cities and killed and displaced its civilian unarmed residents. Whereas the accused knows that besieging inhabited cities and</p>

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			<p>inciting their bombing will lead to the arbitrary killing of people and the sabotage of cities. Whereas the accused committed this act for political reasons in order to take revenge on the residents of these cities because they defected from the regime. This charge is proven against the accused. Pp. 0431-0432. [...]</p> <p>[...] Whereas the sabotage and arbitrary killing charge brought against Defendant No. 1 given his involvement in booby-trapping a number of vehicles in order to execute remote-controlled explosions, is established against him based on the confessions of Defendant No. 2, Abdullah al-Senussi, who told the Public Prosecution that the accused Sayf al-Islam called him and asked him to appoint a technician with wide expertise in booby-trapping and blowing up vehicles, so he instructed Abd al-Hamid 'Ammar to look for a technician or two for that purpose and send them to Abd al-Salam Hassan and knew later on that a vehicle was blown up in front of Benghazi's Tibesti Hotel. This charge is also proven against the accused based on the confessions of the accused (Jamal Hamida al-Shahid, Abdullah al-Sha'lan and Muhsin al-Lamuji), who admitted that they booby-trapped a number of cars by placing explosives in their cavities. Whereas the testimonies of these witnesses prove that Defendant No. 1 was involved in preparing and booby-trapping a number of vehicles to blow them up with the intent to kill the largest number of people in revenge given their political stance, to undermine national security and wreak havoc in the country. Whereas it has been unanimously acknowledged theoretically and practically that complicity to a crime is established when all the parties to the crime intend to commit the agreed-upon act or when a behavior leads to such act. The Supreme Court judgement in Criminal Appeal No. 645 of Judicial Year 39 shall be reviewed in this regard. It has also been established that the subject</p>

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			<p>matter shall hear the confession of another accused and deem it conclusive evidence if convinced of its validity. Criminal Appeal No. 12 of Judicial Year 40. Whereas Defendant No. 1 is the one who requested Defendant No. 2 to look for technicians in order to booby-trap and blow up a number of vehicles. Therefore, he is an accomplice to the crime. Whereas there is no evidence of perjury by Defendant No. 2, his confessions regarding Defendant No. 1 are admissible to the Court. Whereas the accused undoubtedly knows full well that booby-trapping and blowing up vehicles is a serious war crime entailing sabotage and arbitrary killing. Whereas the accused committed this crime despite knowing all the above-mentioned facts, the crime is proven against him. Pg. 0433. [...]</p> <p>[...] He also ordered that sea ports be besieged, incited rape in the besieged cities and approved such policy, ordered that civilian facilities be struck by military aircraft in addition to other crimes, all of which aimed to undermine national security, wreak havoc and exact revenge on the Libyan people who defected from the regime, Pg. 0439. [...]</p> <p>[...]25. Whereas Defendant No. 25 Abdullah Abu al-Qassim al-Sha'ani was accused of sabotage and murder of the Libyan people for participating alongside others in booby-trapping a number of cars to be blown up in Benghazi, this charge was proven against him based on his confession that he had participated in booby-trapping two Honda Sonata cars with Jamal al-Shahid, Muhsin al-Lamuji and Said al-Gharyani, and that they filled the lower section of doors, under the windshield wiper engine cover and in the trunk. These cavities were opened in an external workshop, and the accused knew that these vehicles were going to be blown up in Benghazi. This charge was also proven against him</p>

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			based on the confessions of accused Jamal al-Shahid, Muhsin al-Lamuji and Said al-Gharyani, in which they confirmed before the Public Prosecution that they had participated with Abdullah al-Sha'ani in booby-trapping five vehicles, at the request of Abdullah al-Senussi and with the knowledge of Sayf al-Islam, to be blown up in Benghazi. Pg. 0587 [...]
H) Illegal Migrants			
8.			<p><u><i>The Indictment</i></u></p> <p>Defendants Nos. 1, 2, 3, 5, 8, 10 and 21: (1) Introduced illegal migrants into the country then removed them. They brought African migrants from surrounding African countries and others residing in the country and gathered them in various locations, such as Sidi Bilal Port, then put them on fishing boats sailing towards Europe. Defendants Nos. 2, 3, 5, 10 and 21 were in charge of guarding and controlling access points, ports and borders. Their acts caused many deaths as shown in the attached forensic reports, as they committed various crimes shown in detail in the papers. (2) Acted as accomplices by way of incitement, agreement and assistance in deliberate killings by taking illegal African migrants out of the country on board fishing boats that are not meant to carry passengers and therefore lack the minimum conditions of safety and stability. The boats carrying large numbers of Europe-bound migrants were loaded beyond their capacity. Consequently, the boats sunk and dozens of Africans drowned, which was an expected and even desired outcome, as shown in the attached forensic reports. Pg. 0289.</p> <p><u><i>Witness Testimony / Testimony of Accused</i></u></p> <p>[...] As for the mobilization of armed groups from</p>

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			<p>Tarhunah, Warfalah and Abu Salim, the attorney said that Defendant No. 1, Sayf al-Islam Muammar Gaddafi, should be held accountable for it and that Defendant No. 2 had nothing to do in the matter. With regards to illegal migration, the attorney said that these operations were conducted under the supervision of Zuhayr Adham and Hannibal Muammar Gaddafi, reported the latter saying "They buy us missiles and we send them human rockets" and said that his client had nothing to do with these operations that were also carried out under the instructions of Muammar Gaddafi and his son Sayf. This was confirmed by the accused Umar al-Farjani, who said that illegal migration was carried out in execution of superior orders. Pg. 0348 [...]</p> <p style="text-align: center;"><u>Facts</u></p> <p>[...] The accused added that Defendants Nos. 1 and 2 handled illegal migration while his role was restricted to reinstate a group of officers who were convicted in illegal migration cases based on the suggestion of Defendant No. 10, Mundhir Ramadan al-Ghanimi, and the request of Defendant No. 1. Pg. 0363 [...]</p> <p>[...] He also confessed that he knew that arming the tribes would sow dissension and that his role in illegal migration was restricted to reinstating the officers who were convicted in illegal migration cases at the request of the first, second and tenth accused. Pg. 0366 [...]</p> <p>[...] He also confessed that he worked in illegal migration with migrants heading out of the Port of Tripoli and that Defendant No. 1 is aware of it and Defendant No. 21 is the one who gave permission for the tugboat's departure. He added that migration led to the death of hundreds of Africans by drowning. He also</p>

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			<p>said that Defendant No. 1 requested that he equip a police force in order to enter Misratah and al-Zawiyah and that he executed these instructions because he cannot refuse the instructions of Defendant No. 1. When the accused was confronted with the documents he received with regards to assigning military missions to boats and tugboats, including the interception of aid vessels heading to the rebelling cities and the use of tugboats to transport African migrants to Europe, he confirmed the validity of these documents and the fact that he assigned missions to boats with regards to the Port of Misratah in order to intercept aid vessels and weapons-loaded tugboats so as to prevent them from accessing the city and to eventually besiege the city, adding that this was executed based on the instructions of Defendant No. 1. Pg. 0371. [...]</p> <p>[...]- The accused confessed that Defendants Nos. 1 and 2 asked him to reinstate (Mustafa Dufan), a police officer who was dismissed from work since he was incarcerated for facilitating illegal migration, so the concerned officer was reinstated by a decision from Defendant No. 3 and participated in illegal migration under the supervision of Defendants Nos. 1 and 2. Pg. 0371 [...]</p> <p>[...]When Defendant No. 1, Sayf al-Islam Muammar Gaddafi, was re-interrogated, [...] He also confessed that he organized illegal migration to Italy and Europe and he used to issue instructions to Defendant No. 10. He confirmed the statements of the latter about him and admitted that he was aware of the death of Africans who drowned because they were on board fishing boats that capsized, asking "So what?" He also admitted that he issued instructions to Defendant No. 10 in order to assign combat missions to boats, tugboats and speedboats, and he confirmed the statement of</p>

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			<p>Defendant No. 10 on the matter. Pg. 0381. [...]</p> <p>[...] When the accused Mundhir Mukhtar al-Ghanimi was re-interrogated and confronted with the documents including his instructions to assign boats and tugboats military missions in order to intercept aid vessels heading towards rebel cities and to use tugboats in order to smuggle African migrants into Europe. The accused confirmed the validity of these documents and that all the boats were assigned the missions figuring in the letters in execution of Sayf al-Islam Gaddafi's strict instructions to direct these boats in missions towards the Port of Misratah in order to intercept aid vessels. Regarding illegal migration, he said that he was carrying out instructions of Sayf al-Islam Gaddafi and admitted that around 300 corpses for the Africans who drowned when two tugboats sank in the Port of Tripoli and al-Sha'ab Port were extracted. Pg. 0411. [...]</p> <p>[...] When Defendant No. 1, Sayf al-Islam Gaddafi, was re-interrogated, he confessed that he conducted illegal migration to Italy and Europe and that he was aware that Africans were killed on board fishing boats and said "So what?". He also confessed that he instructed the accused Mundhir al-Ghanimi to commission boats, tugboats and speedboats to sail on combat missions. Pg. 0412 [...]</p> <p style="text-align: center;"><u><i>Grounds of Judgment</i></u></p> <p>[...] On the charge of involvement in illegal migration that is attributed to Defendant No. 10, The charge is proven against the Defendant based on the statement of Defendant No. 3 who mentioned before the Public Prosecution that Mundhir al-Ghanimi was involved in illegal migration, as he sent him a letter requesting the reinstatement of officers who were convicted of illegal</p>

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			<p>migration to benefit from their expertise in organising such operations. The charge is proven against the Defendant based on his confession that he was aware of the illegal migration operations conducted from the Port of Tripoli and that he knew about the death by drowning of hundreds of Africans, as well as his confession to the accuracy of the letters that contained his instructions to use tugboats to illegally transport African immigrants to Europe, admitting that he acted as per the instructions of defendant Sayf Gaddafi and that it was the latter who asked him to reinstate Colonel Mustafa al-Dughani, who was convicted of crimes associated with illegal migration, in addition to his confession that the bodies of over three hundred Africans were recovered after their tugboats drowned in al-Sha'ab Station and the Port of Tripoli. [...] whereas the Defendant was aware on account of his job and political status that illegal migration is a criminal act under Libyan law and international law, nonetheless he conducted such operations for political purposes to satisfy the whims of Muammar Gaddafi and his son, Defendant No. 1; therefore the charge is proven against the Defendant of this offence and he shall be convicted thereof. Pg. 0534. [...]</p>