Pursuant to Pre-Trial Chamber II's order, ICC-02/17-249, this document is transferred from the situation record ICC-02/17 into the situation record ICC-02/26.

Cour Pénale Internationale

International Criminal Court

Original: **English**

No.: **ICC-02/17**
Date: **5 October 2026**

PRE-TRIAL CHAMBER II

Before: **Judge Rosario Salvatore Aitala, Presiding**
Judge Sergio Gerardo Ugalde Godínez
Judge Haykel Ben Mahfoudh

SITUATION IN THE ISLAMIC REPUBLIC OF AFGHANISTAN

Public

Public redacted version of 'Warrant of arrest for Habibullah Agha', 9 September 2025, ICC-02/17-234-US-Exp

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

☒ **The Office of the Prosecutor**

☐ **Counsel for the Defence**

☐ **Legal Representatives of the Victims**

☐ **Legal Representatives of the Applicants**

☐ **Unrepresented Victims**

☐ **Unrepresented Applicants (Participation/Reparation)**

☐ **The Office of Public Counsel for Victims**

☐ **The Office of Public Counsel for the Defence**

☐ **States' Representatives**

☐ **Amicus Curiae**

REGISTRY

Registrar
Mr Osvaldo Zavala Giler

☐ **Counsel Support Section**

☐ **Victims and Witnesses Unit**

☐ **Detention Section**

☐ **Victims Participation and Reparations Section**

☐ **Other**

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PRE-TRIAL CHAMBER II (the 'Chamber') of the International Criminal Court (the 'Court') issues this warrant of arrest pursuant to article 58(1) of the Rome Statute (the 'Statute') for

Habibullah Agha[1]

a national of Afghanistan, born in 1954 or 1955 in Joy Lahor, Arghandab District, Kandahar Province, Afghanistan.[2]

I. PROCEDURAL HISTORY

1. On 20 November 2017, the Prosecution filed a 'Request for authorisation of an investigation pursuant to article 15' of the Statute in the Situation in the Islamic Republic of Afghanistan (the 'Article 15 Request' and 'Situation in Afghanistan').[3]

2. On 12 April 2019, the Chamber, in a different composition, rejected the Article 15 Request ('the Article 15 Decision').[4]

3. On 5 March 2020, the Appeals Chamber amended the Article 15 Decision and authorised the investigation into the Situation in Afghanistan.[5]

4. On 31 October 2022, following a deferral request by the government of Afghanistan and the temporary suspension of the Prosecution's investigative activities,[6] the Chamber granted the Prosecution's request to authorise the resumption of its investigation into the Situation in Afghanistan (the 'Article 18(2) Decision').[7]

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[1] Also spelled Habib/Habibillah AGHAH.
[2] AFG-OTP-00007983 (RT: AFG-OTP-00009365). For photographs of the suspect, see also AFG-OTP-00007986, and Annex 1 to the Prosecution's application under article 58 for a warrant of arrest against Habibullah AGHA, ICC-02/17-230-US-Exp-Anx1, under seal and *ex parte*, only available to the Prosecution.
[3] ICC-02/17-7-Conf-Exp, only available to the Prosecution (a public redacted version was filed on the same day, ICC-02/17-7-Red).
[4] Decision Pursuant to Article 15 of the Rome Statute on the Authorisation of an Investigation into the Situation in the Islamic Republic of Afghanistan, ICC-02/17-33.
[5] Judgment on the appeal against the decision on the authorisation of an investigation into the situation in the Islamic Republic of Afghanistan, ICC-02/17-138.
[6] Notification to the Pre-Trial Chamber of the Islamic Republic of Afghanistan's letter concerning article 18(2) of the Statute, 15 April 2020, ICC-02/17-139, with public annex 1 containing the deferral request.
[7] Decision pursuant to article 18(2) of the Statute authorising the Prosecution to resume investigation, ICC-02/17-196 *adjudicating* Request to authorise resumption of investigation under article 18(2) of the Statute, 27 September 2021, ICC-02/17-161.

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5. On 4 April 2023, the Appeals Chamber amended the Article 18(2) Decision.[8]

6. On 28 November 2024, six States Parties submitted a referral to the Prosecution pursuant to article 14 of the Statute, concerning allegations of 'crimes committed against women and girls [in Afghanistan] after the Taliban takeover in 2021' (the 'Referral').[9]

7. [REDACTED].[10]

8. On 6 March 2025, the Prosecution filed the 'Prosecution's application under article 58 for a warrant of arrest against Habibullah AGHA' (the 'Application'),[11] for the crime against humanity of persecution (article 7(1)(h) of the Statute) committed in Afghanistan from at least 15 August 2021 until at least 7 March 2025.[12]

II. JURISDICTION AND ADMISSIBILITY

9. Pursuant to article 19(1) of the Statute, the Chamber must consider whether the Court has jurisdiction over the alleged conduct. The Chamber finds that, based on the material before it, including in particular information contained in the Referral, the case against Mr Agha, as alleged by the Prosecution, falls within the jurisdiction of the Court. This is without prejudice to any future determinations on the matter.

10. The Chamber declines, at this stage, to use its discretionary *proprio motu* power to determine the admissibility of the case against Mr Agha as there is no ostensible cause or self-evident factor which impels it to exercise its discretion pursuant to article 19(1) of the Statute.[13]

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[8] Judgment on the Prosecutor's appeal against the decision of Pre-Trial Chamber II entitled "Decision pursuant to article 18(2) of the Statute authorising the Prosecution to resume investigation", ICC-02/17-218.
[9] ICC Press Release, Statement of ICC Prosecutor Karim A.A. Khan KC on the Situation in Afghanistan: receipt of a referral from six States Parties, 29 November 2024.
[10] [REDACTED].
[11] ICC-02/17-230-US-Exp, under seal and *ex parte*, only available to the Prosecution. See also Decision on the 'Prosecution's request for an extension of page limit', 21 February 2025, ICC-02/17-229-US-Exp, under seal and *ex parte*, only available to the Prosecution, *granting* Prosecution's request for an extension of page limit, 13 January 2025, ICC-02/17-223-US-Exp, under seal and *ex parte*, only available to the Prosecution.
[12] Application, para. 1.
[13] See Appeals Chamber, *Situation in the Democratic Republic of the Congo*, Judgment on the Prosecutor's appeal against the decision of Pre-Trial Chamber I entitled 'Decision on the Prosecutor's Application for Warrants of Arrest, Article 58', 13 July 2006, ICC-01/04-169 (OA), paras 1-2, 52; Pre-Trial Chamber I, *The Prosecutor v. Omar Hassan Ahmad Al Bashir*, Warrant of Arrest for Omar Hassan

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III. REQUIREMENTS OF ARTICLE 58(1) OF THE STATUTE

11. Article 58(1) of the Statute provides that the Chamber shall, on the application of the Prosecution, issue a warrant of arrest for a person if it is satisfied that there are reasonable grounds to believe that the person has committed a crime within the jurisdiction of the Court, and the arrest of the person appears necessary. The findings of fact, as set out below, are therefore made based on this evidentiary standard. The evidentiary material supporting the Application includes, in particular, witness statements, official decrees and other instructions promulgated by the Taliban, official Taliban statements and media releases, reports from United Nations bodies, and other open-source information, including social media material.

A. Whether there are reasonable grounds to believe Mr Agha has committed a crime within the jurisdiction of the Court (article 58(1)(a) of the Statute)

1. Contextual elements

12. As further detailed below, the Chamber finds that there was a course of conduct involving the commission of multiple acts referred to in article 7(1)(a) of the Statute by the Taliban against the civilian population of Afghanistan.[14] The Chamber notes that the Taliban is a political-military group that emerged in the political landscape in the mid-1990s.[15] In 1996, the Taliban gained control over most of the territory of Afghanistan, and established their own government.[16] While the Taliban regime was ended by its military defeat in 2001, it immediately started an armed insurgency against the government in place. This insurgency ultimately succeeded as on 15 August 2021, the Taliban took over Kabul and declared itself the interim government of the State[17] –

Ahmad Al Bashir, 4 March 2009, ICC-02/05-01/09-1, p. 4; Pre-Trial Chamber I, *The Prosecutor v. Callixte Mbarushimana*, Decision on the Prosecutor's Application for a Warrant of Arrest against Callixte Mbarushimana, 28 September 2010, ICC-01/04-01/10-1, para. 9; Pre-Trial Chamber I, *The Prosecutor v. Ahmad Al Faqi Al Mahdi*, *Mandat d'arrêt à l'encontre d'Ahmad Al Faqi Al Mahdi*, 28 September 2015, ICC-01/12-01/15-1-Red (confidential version issued on 18 September 2015), para. 12; and Pre-Trial Chamber I, *Situation in Georgia*, Arrest warrant for Gamlet Guchmazov, 30 June 2022 (confidential version issued on 24 June 2022), ICC-01/15-41-Red, para. 3.

[14] See paragraphs 32, 38 below.

[15] AFG-OTP-00004478, p. 1.

[16] See AFG-OTP-00004478, p. 11.

[17] AFG-OTP-00000285, para 70; AFG-OTP-00000346, para. 77.

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the 'Islamic Emirate of Afghanistan'.[18] Therefore, the Taliban became the *de facto* authority of Afghanistan on 15 August 2021 and remained so throughout the time period relevant to the crimes alleged by the Prosecution.

13. The Taliban group is characterised by a centralised hierarchy, with the Supreme Leader (*Amir-ul-Momineen*) exercising ultimate authority, and a common ideology.[19] The Taliban ideology was originally developed within religious schools (*madrassas*),[20] and the Taliban still relies on its understanding of religion both to distinguish its identity and to define its political aims and objectives.[21] In this respect, the notion of gender plays a key role and divides males and females in a society where the latter are not entitled to the same rights and freedoms as the former.[22] The Taliban and their Supreme Leader further regard as their primary duty the imposition of their ideology, and the rules and prohibitions that ensue, on the Afghan population.[23] Since the Taliban acceded to power on 15 August 2021, its ideology and methods of enforcement have translated into its governmental policy.

14. Based on the above and the material before it, the Chamber further finds that the multiple acts referred to in article 7(1)(a) of the Statute were carried out by Taliban members against the civilian population of Afghanistan as a result of the implementation of the Taliban's governmental policy informed by its ideology, as evidenced by official decrees, edicts, as well as publications by its senior members[24] and, as such, pursuant to a policy in the sense of article 7(2)(a) of the Statute. In light of the foregoing, the Chamber is satisfied that the Taliban directed an 'attack' against a civilian population within the meaning of article 7(2)(a) of the Statute. Furthermore, due to the number of targeted civilians across the entire territory of Afghanistan over

[18] AFG-OTP-00002912 (RT: AFG-OTP-00004798); AFG-OTP-00002972 (RT: AFG-OTP-00005092 p. 5).
[19] See, e.g., AFG-OTP-00000285, para 96; AFG-OTP-00000346, paras 82-83, 86; AFG-OTP-00002452, para. 180; AFG-OTP-00002313, paras 89, 96.
[20] AFG-OTP-00004478, pp. 1-3, 6-8; AFG-OTP-00000346, paras 105-108.
[21] See, e.g., AFG-OTP-00004478, pp. 3, 8; AFG-OTP-00000011; p. 2.
[22] See, e.g., AFG-OTP-00000179 (RT: AFG-OTP-00004387, pp. 152-154, 301-302). See also AFG-OTP-00001577 (RT: AFG-OTP- 00009556, pp. 32-33); AFG-OTP-00000436 (RT: AFG-OTP-00005189), article 37.
[23] See, e.g., AFG-OTP-00000179 (RT: AFG-OTP-00004387, p. 87); AFG-OTP-00001902, paras 2-3; AFG-OTP-00003101 (RT: AFG-OTP-00004873, pp. 3-5).
[24] See paragraphs 24-31 below. See further AFG-OTP-00122374 (RT: AFG-OTP-00005074); AFG-OTP-0012-2375 (RT: AFG-OTP-00005078). See also AFG-OTP-00000436 (RT: AFG-OTP-00005189); AFG-OTP-00002334 (RT: AFG-OTP-00005110).

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several years,[25] as well as the systematicity of the commission of the alleged crime shown *inter alia* by the creation of specific regulations and structures for the implementation of the Taliban governmental policy,[26] there are reasonable grounds to believe that this attack was widespread and systematic.

15. In light of his position, acts, and conduct,[27] the Chamber further finds reasonable grounds to believe that Mr Agha intended the conduct to be part of the widespread and systematic attack directed against the targeted population.

2. Alleged crimes

16. The Prosecution alleges the crime against humanity of persecution based on gender grounds against girls, women and other persons non-conforming with the Taliban's ideological expectations of gender, gender identity or expression. In this regard, the Chamber notes that while persecution as a crime against humanity based on political, racial or religious grounds has been codified in the statutes of other international tribunals since 1945,[28] gender-based persecution was codified for the first time in article 7(1)(h) of the Statute.

17. In addition to the contextual elements referred to above, the crime against humanity of persecution requires proof that the perpetrator severely deprived one or more persons of fundamental rights, contrary to international law; that such person(s) were targeted by reason of the identity of a group or collectivity; and that the targeting was based on grounds recognised as impermissible under international law such as political or gender as defined in article 7(3) of the Statute. In addition, the conduct must have been committed in connection with any act referred to in article 7(1) of the Statute or any crime within the jurisdiction of the Court.

18. As to the definition of gender, article 7(3) of the Statute provides that

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[25] AFG-OTP-00002682, para. 97; AFG-OTP-00003022, para. 23; AFG-OTP-00002680, pp. 5-7, 15-27.
[26] See, e.g., the Ministry of Promoting Virtue, Preventing Evil and Hearing Complaints created under the Taliban regime as an organ *inter alia* tasked to implement and 'strictly follow up' on the instructions issued by the Taliban leadership, see AFG-OTP-00000436 (RT: AFG-OTP-00005189, preamble, p. 2); AFG-OTP-00007122 (RT: AFG-OTP-00009521, p. 3).
[27] See paragraphs 41-44 below.
[28] See, e.g., Charter of the International Military Tribunal (Annexed to the London Agreement), 8 August 1945, article 6; Charter of the International Military Tribunal for the Far East, 25 April 1946, article 5; Statute of the International Criminal Tribunal for the Former Yugoslavia, 25 May 1993, article 5(h); Statute of the International Criminal Tribunal for Rwanda, 8 November 1994, article 3.

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> [f]or the purpose of this Statute, it is understood that the term "gender" refers to the two sexes, male and female, within the context of society. The term "gender" does not indicate any meaning different from the above.

19. In accordance with the definition provided in article 7(3) of the Statute, and as set out in paragraph 16 above, the term 'gender' refers to the two sexes, male and female, understood within the context of society. The Chamber considers that this qualifying clause — '*within the context of society*' — necessitates an interpretation that goes beyond a purely biological conception of sex. It requires acknowledging the socially constructed roles, behaviours, expectations, and hierarchies traditionally associated with individuals on the basis of their sex.[29] These societal constructs, commonly referred to as 'gender norms', form part of the contextual lens through which acts amounting to gender-based persecution under article 7(1)(h) must be assessed.

20. In this regard, the Chamber is of the view that the protection offered by the Statute is not limited to direct or manifest acts of gender-based persecution. Indeed, consistent with its object and purpose to ensure accountability for the most serious crimes of concern for the international community, the Statute must also protect against structural and institutionalised gender-based harm that results from the imposition of discriminatory societal norms, even when codified or legitimised through cultural or religious rules and traditions. Therefore, these norms may constitute persecution on gender grounds under article 7(1)(h) of the Statute, read together with article 7(3), when they severely violate fundamental rights.

21. With regards to the remaining elements of the crime against humanity of persecution, the Chamber notes that the conduct underlying an act of persecution may constitute an act listed in article 7(1) of the Statute (in which case the deprivation of fundamental rights would in principle meet the minimum level of severity required). However, conduct underlying an act of persecution can still meet this threshold even if it is not one of the acts enumerated in article 7(1) of the Statute.[30] A broad range of acts may constitute underlying acts of persecution provided they reach the necessary level

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[29] See, e.g., United Nations Human Rights Council, Guidelines on International Protection: Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, 7 May 2002, HCR/GIP/02/01, para. 3.
[30] Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Trial Judgment, 26 June 2024, ICC-01/12-01/18-2594-Red (the '*Al Hassan* Judgment'), paras 1202, 1204.

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of gravity (i.e. acts involving the severe deprivation of fundamental rights).[31] Further, it is not necessary for the identifiable targeted group to be defined by the discriminatory grounds listed in article 7(1)(h) of the Statute – these grounds rather enumerate the prohibited reasons for targeting the group.[32] Finally, the Chamber considers that the plain wording of the Elements of the Crime makes apparent that it is the crime of persecution which must be connected with an act under article 7(1) of the Statute, rather than the individual acts underlying the same.[33]

22. In the following sections, the Chamber's analysis of the allegations and evidence submitted by the Prosecution will be guided by the above considerations.

23. Further, in reaching its findings, the Chamber has primarily relied on allegations and evidence included in the application itself. In this regard, the Chamber notes that in relation to various allegations, the Prosecution refers to incidents and/or evidence included in annexes only.[34] Pursuant to regulation 36(2)(b) of the Regulations of the Court, the Chamber has disregarded argumentative material that has only been included in annexes.

a) The targeting of girls, women, and other persons non-conforming with the Taliban's ideological expectations of gender, gender identity or expression

24. Based on the material before it, the Chamber is satisfied to the required threshold that the Taliban persecuted girls and women and severely deprived them of fundamental rights, notably the right to education, the rights to freedom of movement, freedom of expression, freedom of thought, conscience and religion, and the right to privacy and family life.[35] The Taliban specifically targeted girls and women by reason of their gender, depriving them of some of their fundamental rights because of the

[31] *Al Hassan* Judgment, para. 1202.
[32] *Al Hassan* Judgment, para. 1206.
[33] *Al Hassan* Judgment, para. 1210.
[34] See, e.g., Application, paras 90, n. 302; 95, n. 319-321.
[35] Article 13 of the International Covenant on Economic, Social, and Cultural Rights; articles 12, 17, 18 and 19 of the International Covenant on Civil and Political Rights, UN General Assembly, United Nations, Treaty Series, vol. 999 (the 'ICCPR'); articles 13, 15-16 and 28-29 of the Convention on the Rights of the Child; articles 10, 13 and 16 of the Convention on the Elimination of All Forms of Discrimination against Women. See also articles 12-13, 18-19 and 26 of the Universal Declaration of Human Rights ('UDHR'); article 9 of the Cairo Declaration on Human Rights in Islam; article 31 of the ASEAN Declaration on Human Rights.

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particular gender roles, expectations and conduct the Taliban assigned to their sex. While the Taliban imposed rules and prohibitions on the entire population, the behaviour of girls and women was particularly regulated and controlled. This control appears to have been manifested by imposing severe restrictions on fundamental human rights of girls and women, including grievous and discriminatory punishments, considered below. The discriminatory rules and prohibitions were imposed by means of edicts/decrees, and other types of formal instructions, issued by the Taliban central authority and widely disseminated for implementation through circulars sent to all the regions in the country.

25. In relation to the right to education, there are reasonable grounds to believe that the Taliban: (i) initially restricted, and at least from 22 December 2022, banned education for girls beyond grade 6;[36] (ii) replaced female teachers for secondary education with men;[37] (iii) banned the education of male and female students together (both in schools, and at universities);[38] and (iv) appears to have permitted only male students to be eligible for the [*kankor*] exam governing admission to university and restricted the ability of female students to go to university.[39] While the Taliban declared some of these measures to be 'temporary' in nature,[40] there are reasonable grounds to believe that they were not lifted during the relevant time period.[41]

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[36] AFG-OTP-00002323 (RT: AFG-OTP-00005140); AFG-OTP-00002322 (RT: AFG-OTP-00004895); AFG-OTP-00004028 (RT: AFG-OTP-00009415); AFG-OTP-00004030 (RT: AFG-OTP-00009416); AFG-OTP-00122332 (RT: AFG-OTP-00004832); AFG-OTP-00002315 (RT: AFG-OTP-00005137); AFG-OTP-00004141 (RT: AFG-OTP-00004995); AFG-OTP-00004143 (RT: AFG-OTP-00004992); AFG-OTP-00002682, para. 17; AFG-OTP-00000096, p. 31; AFG-OTP-00003022, paras 14, 16, 24; AFG-OTP-00008812, paras 22-26; AFG-OTP-00004127 (RT: AFG-OTP-00004991). See also AFG-OTP-00005874, paras 95-102, 107-121; AFG-OTP-00005167, para. 143; AFG-OTP-00003107, paras 37, 125-126; AFG-OTP-00005245, pp. 3-5; AFG-OTP-00003547, paras 66, 68; AFG-OTP-00003550, paras 74, 76; AFG-OTP-00003262, para. 74; AFG-OTP-00005471, para. 122; AFG-OTP-00005593, paras 50-52.
[37] AFG-OTP-00005233, para. 41; AFG-OTP-00003107, paras 128-131.
[38] AFG-OTP-00006059 (RT: AFG-OTP-00009523); AFG-OTP-00002893 (RT: AFG-OTP-00006718); AFG-OTP-00003276, para. 48.
[39] AFG-OTP-00002877 (RT: AFG-OTP-00004815); AFG-OTP-00001796 (RT: AFG-OTP-00005126); AFG-OTP-00002324 (RT: AFG-OTP-00005141); AFG-OTP-00004036 (RT: AFG-OTP-00009417); AFG-OTP-00002317 (RT: AFG-OTP-00005138); AFG-OTP-00002319 (RT: AFG-OTP-00005115); AFG-OTP-00003108 (RT: AFG-OTP-00004925); AFG-OTP-00004127 (RT: AFG-OTP-00004991); AFG-OTP-00003022, paras 8, 16; AFG-OTP-00002682, para. 17; AFG-OTP-00002410, pp. 13-14, 17-18; AFG-OTP-00008812, paras 22-26. See also AFG-OTP-00007896, paras 23, 30, 60-64; AFG-OTP-00003547, paras 66, 68-69; AFG-OTP-00003550, paras 74, 76, 78; AFG-OTP-00003276, para. 105; AFG-OTP-00005874, para. 107.
[40] AFG-OTP-00001894 (RT: AFG-OTP-00004944).
[41] AFG-OTP-00005471, para. 122; AFG-OTP-00005593, paras 50-52; AFG-OTP-00003547, para. 68; AFG-OTP-00002421; AFG-OTP-00002422 (RT: AFG-OTP-00009788); AFG-OTP-00005243, p. 3.

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26. The Chamber is further satisfied to the required standard that the Taliban severely restricted women's freedom of movement, by: (i) prohibiting women from taking any journey exceeding 72 kilometres or from attending certain places (such as local markets or shops and health facilities) without a male guardian (*mahram*), resulting in a *de facto* obligation for women to be accompanied by a *mahram* in their daily lives;[42] (ii) restricting women's access to any public places, through segregation or complete exclusion;[43] (iii) severely restricting women's access to work by banning them from places where both women and men were present[44] or forcing them to at all times be accompanied by a male *mahram*[45] or banning women from working for Non-Governmental Organisations, the United Nations, and from holding political or legal/judicial positions, or any other official or civil servant positions;[46] (iv) banning

[42] AFG-OTP-00002690 (RT: AFG-OTP-00004866); AFG-OTP-00002682, para. 17; AFG-OTP-00000096, pp. 31-32; AFG-OTP-00003547, paras 65-66, 75-77; AFG-OTP-00005665, para. 100; AFG-OTP-00003190, para. 107; AFG-OTP-00003262, para. 62; AFG-OTP-00005471, para. 122; AFG-OTP-00005233, para. 29; AFG-OTP-00004115 (RT: AFG-OTP-00004979); AFG-OTP-00007122 (RT: AFG-OTP-00009521), articles 13(8) and 20(5); AFG-OTP-00005593, paras 59, 102-103, 130, 133; AFG-OTP-00002357 (RT: AFG-OTP-00005157); AFG-OTP-00000436 (RT: AFG-OTP-00005189, article 127); AFG-OTP-00004020 (RT: AFG-OTP-00009420); AFG-OTP-00004021 (RT: AFG-OTP-00006688); AFG-OTP-00004147 (RT: AFG-OTP-00004999); AFG-OTP-00003294, para. 61; AFG-OTP-00002313, paras 79, 87; AFG-OTP-00002209, paras 65, 72-73; AFG-OTP-00003223 (RT: AFG-OTP-00005085); AFG-OTP-00001925 (RT: AFG-OTP-00005114); AFG-OTP-00003022, paras 18-19; AFG-OTP-00000013, pp. 51-53; AFG-OTP-00002410, p. 13. See also AFG-OTP-00000179 (RT: AFG-OTP-00004387, pp. 82-83; 155, 251).

[43] AFG-OTP-00000436 (RT: AFG-OTP-00005189, articles 120-122); AFG-OTP-00004014 (RT: AFG-OTP-00009419); AFG-OTP-00002933 (RT: AFG-OTP-00004975, pp. 3-4); AFG-OTP-00003223 (RT: AFG-OTP-00005086); AFG-OTP-00002410, p. 13; AFG-OTP-00003547, para. 66; AFG-OTP-00005665, para. 99; AFG-OTP-00003107, paras 38-41; AFG-OTP-00003262, para. 62; AFG-OTP-00005471, paras 67, 122; AFG-OTP-00004044 (RT: AFG-OTP-00009418); AFG-OTP-00001900 (RT: AFG-OTP-00005134); AFG-OTP-00001845 (RT: AFG-OTP-00005130); AFG-OTP-00002905 (RT: AFG-OTP-00004828); AFG-OTP-00008812, para. 34.

[44] AFG-OTP-00003107, para. 48; AFG-OTP-00003276, paras 52-53, 68-70. See also AFG-OTP-00002692 (RT: AFG-OTP-00004867).

[45] AFG-OTP-00002209, paras 65-66.

[46] AFG-OTP-00009006 (RT: AFG-OTP-00009833); AFG-OTP-00004062 (RT: AFG-OTP-00004954); AFG-OTP-00003453 (RT: AFG-OTP-00004928); AFG-OTP-00003022, paras 8, 52-53; AFG-OTP-00008812, para. 27; AFG-OTP-00002410, pp. 13, 18; AFG-OTP-00004321, para. 31; AFG-OTP-00002356 (RT: AFG-OTP-00005106); AFG-OTP-00003107, para. 124; AFG-OTP-00005874, paras 103-105; AFG-OTP-00001933; AFG-OTP-00002682, paras 17, 24-28, 48, 80; AFG-OTP-00003262, paras 46, 63; AFG-OTP-00000549 (RT: AFG-OTP-00000615); AFG-OTP-00000555 (RT: AFG-OTP-00005104); AFG-OTP-00001570 (RT: AFG-OTP-00005059, p. 12); AFG-OTP-00003195, paras 58, 80; AFG-OTP-00002353 (RT: AFG-OTP-00005155); AFG-OTP-00002914 at 00:13:34 (RT: AFG-OTP-00005061, p. 6); AFG-OTP-00003547, para. 64; AFG-OTP-00005688, para. 221; AFG-OTP-00005167, paras 49-52, 147. See also AFG-OTP-00000179 (RT: AFG-OTP-00004387, pp. 275-280).

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collective gatherings of women during Eid days;[47] and (v) ordering the closure of beauty parlours.[48]

27. There are also reasonable grounds to believe that the Taliban severely deprived women of the right to freedom of expression, by: (i) quashing women's demonstrations and expressions of dissent;[49] and (ii) concealing women's voices from the public.[50] The Taliban further restricted women's freedom of thought, conscience and religion by imposing and enforcing a strict dress and physical appearance code on all women and girls, *inter alia*, requiring them to be fully covered at all times when leaving their homes.[51]

28. The Chamber is further satisfied to the required standard that the Taliban severely deprived women of the right to private and family life, for example through (i) the denial of work, education, personal autonomy and economic independence and self-fulfilment,[52] (ii) the suppression of individual expressions of identity and sexual orientation, including in intimate lives;[53] and (iii) the inability to access public services necessary for private and family life, such as healthcare.[54]

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[47] AFG-OTP-00002358 (RT: AFG-OTP-00005158); AFG-OTP-00002354 (RT: AFG-OTP-00005156).
[48] AFG-OTP-00002360 (RT: AFG-OTP-00005160); AFG-OTP-00004135 (RT: AFG-OTP-00009414); AFG-OTP-00002945 (RT: AFG-OTP-00004830); AFG-OTP-00003547, para. 67; AFG-OTP-00003262, para. 63; AFG-OTP-00003276, para. 106; AFG-OTP-00002452, paras 266-267; AFG-OTP-00005542, paras 42-43, 83-85, 89; AFG-OTP-00008812, para. 29; AFG-OTP-00004321, para. 31.
[49] AFG-OTP-00002682, para. 29; AFG-OTP-00002882, paras 34, 38-40.
[50] AFG-OTP-00007122 (RT: AFG-OTP-00009521), articles 13 and 22(10).
[51] AFG-OTP-00004138 (RT: AFG-OTP-00009421); AFG-OTP-00000436 (RT: AFG-OTP-00005189), articles 38, 49, 119, 122; AFG-OTP-00002893 (RT: AFG-OTP-00006718); AFG-OTP-00004139 (RT: AFG-OTP-00004994); AFG-OTP-00002896 (RT: AFG-OTP-00004829); AFG-OTP-00003094 (RT: AFG-OTP-00004937); AFG-OTP-00122372 (RT: AFG-OTP-00005125); AFG-OTP-00122373 (RT: AFG-OTP-00005068); AFG-OTP-00002357 (RT: AFG-OTP-00005157); AFG-OTP-00122399 (RT: AFG-OTP-00005069); AFG-OTP-00001877 (RT: AFG-OTP-00005131); AFG-OTP-00002001; AFG-OTP-00002697 (RT: AFG-OTP-00005098); AFG-OTP-00122468 (RT: AFG-OTP-00005075); AFG-OTP-00002349 (RT: AFG-OTP-00005153); AFG-OTP-00122474 (RT: AFG-OTP-00005148); AFG-OTP-00002692 (RT: AFG-OTP-00004867); AFG-OTP-00004038 (RT: AFG-OTP-00009425); AFG-OTP-00002976 (RT: AFG-OTP-00004933); AFG-OTP-00001950 (RT: AFG-OTP-00005105); AFG-OTP-00004108 (RT: AFG-OTP-00004986); AFG-OTP-00122418 (RT: AFG-OTP-00004871); AFG-OTP-00005542, paras 29, 38; AFG-OTP-00005688, paras 205-211, 226-230; AFG-OTP-00003547, paras 75, 103; AFG-OTP-00005665, para. 104; AFG-OTP-00002682, para. 17.
[52] AFG-OTP-00003107, paras 71, 73, 81; AFG-OTP-00003276, paras 118, 120-121; AFG-OTP-00002209, paras 72-73; AFG-OTP-00003486, para. 64; AFG-OTP-00002313, paras 151-152. See also paragraphs 25-26 above.
[53] AFG-OTP-00002353 (RT: AFG-OTP-00005155).
[54] AFG-OTP-00003276, para. 102; AFG-OTP-00005674, para. 126; AFG-OTP-00003276, para. 98; AFG-OTP-00005874, para. 235; AFG-OTP-00003022, para. 30; AFG-OTP-00002682, paras 54, 60-65; AFG-OTP-00005233, para. 29.

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29. The Taliban also violated women's rights by enforcing their discriminatory rules and prohibitions through harassment, threats and the use of checkpoints to arbitrarily question or search women.[55]

30. The targeting of other persons not conforming with the Taliban's ideological expectations of gender, gender identity or expression manifested in two ways. First, certain expressions of sexuality such as those expressed by lesbian women or gay men were regarded as inconsistent with the Taliban's view of gender and, as such, targeted.[56] Second, individuals whose gender identity did not align with the Taliban's views of what their gender should be were also targeted. This occurred when people did not behave in a manner the Taliban deemed appropriate for the gender they were perceived to have, including in particular the behaviour of individuals self-identifying as queer and/or as transman.[57]

31. There are reasonable grounds to believe that these persons were severely deprived of their fundamental rights, including the right not to be punished arbitrarily, the right to a fair trial, the right to liberty and security and the right to be treated with humanity and with respect for the inherent dignity of the human person.[58] In this regard, the material shows: (i) the enactment of laws by the Taliban prohibiting some forms of homosexuality as such;[59] (ii) the imposition of punishment (involving often corporal or capital punishment such as stoning or crushing under a wall, collapsing onto the victim) on persons not conforming with the Taliban's ideological expectations of gender identity or expression for conduct defined as immoral according to the Taliban's own ideology, including homosexuality;[60] (iii) the non-observance of minimum due process guarantees such as being informed of the reasons for arrest, having access to lawyers, being allowed to have contact with family, having timely medical examinations, being

[55] See AFG-OTP-00002209, paras 48-49; AFG-OTP-00002470, para. 112; AFG-OTP-00006439, paras 115, 117-118; AFG-OTP-00007173, paras 44-65.
[56] AFG-OTP-00002470, paras 80, 111-113, 129; AFG-OTP-00002418, pp. 25-26; AFG-OTP-00003022, para. 88; AFG-OTP-00002417, pp. 22-23, 29, 32.
[57] AFG-OTP-00003479, paras 54-62, 80-85, 97-100; AFG-OTP-00000179 (RT: AFG-OTP-00004387, p. 260); AFG-OTP-00003190, p. 16, para. 116 to p. 17, para. 113, paras 149-155; AFG-OTP-00002470, para. 146; AFG-OTP-00002417, pp. 25-26, 29, 33-34; AFG-OTP-00002418, pp. 17-19, 20-24; AFG-OTP-00002313, para. 121.
[58] Articles 6-7, 9-10, 14, 26 of the ICCPR; articles 2-3, 5, 7, 9-11 of the UDHR.
[59] AFG-OTP-00007122 (RT: AFG-OTP-00009521, articles 22(3) and (4)).
[60] AFG-OTP-00001997, pp. 14, 19; AFG-OTP-00000436 (RT: AFG-OTP-00005189), articles 47, 69, 103; AFG-OTP-00003479, para. 111; AFG-OTP-00002417, p. 2; AFG-OTP-00000285, para. 74.

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promptly brought before an impartial judge, not being compelled to testify against oneself or to confess guilty;[61] and (iv) the judiciary's alignment with the Taliban ideology, as defined by its leaders, and the enforcement of punishments based on that ideology.[62]

32. The Chamber finds reasonable grounds to believe that Taliban members committed acts referred to in article 7(1) of the Statute against at least 56 persons in connection with the severe deprivation of the rights of girls, women and other persons not conforming with the Taliban's ideological expectations of gender, gender identity or expression. These acts included murder,[63] imprisonment, torture, rape and other forms of sexual violence, enforced disappearance of persons, and other inhumane acts.[64]

33. In light of the above, the Chamber is satisfied that (i) from at least 15 August 2021 until at least 20 January 2025, the Taliban severely deprived, at least, 56 persons of their fundamental rights; (ii) these persons were targeted for their belonging to a group that did not conform with the Taliban's ideological expectations of gender, or of gender identity or expression; (iii) such targeting was based on gender grounds; and (iv) the conduct was committed in connection with various acts referred to in article 7(1) of the Statute.

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[61] AFG-OTP-00002680, pp. 30-48; AFG-OTP-00003022, paras 50-51, 54; AFG-OTP-00000285, para. 79.
[62] AFG-OTP-00004509 (RT: AFG-OTP-00005274, p. 1); AFG-OTP-00004511 (RT: AFG-OTP-00005268, pp. 1, 4); AFG-OTP-00003594 (RT: AFG-OTP-00005361); AFG-OTP-00000285, para. 80; AFG-OTP-00004488 (RT: AFG-OTP-00005363).
[63] AFG-OTP-00002209, para 131(d); AFG-OTP-00002098; AFG-OTP-00002222 (RT: AFG-OTP-00005048).
[64] AFG-OTP-00009297, paras 60-78; 87-102; 131-133; AFG-OTP-00008375 (RT: AFG-OTP-00009724, pp. 2-4); AFG-OTP-00008466 (RT: AFG-OTP-00009725, pp. 3-6); AFG-OTP-00009327, paras 48-53, 89-90, 94, 103, 122-155, 244-252; AFG-OTP-00002313, para. 161; AFG-OTP-00002352; AFG-OTP-00003547, paras 129-209, 212, 226; AFG-OTP-00005593, paras 138-139, 145, 148, 153-200; AFG-OTP-00005665, paras 145-209, 245-255, 258; AFG-OTP-00006439, paras 50-51, 108-113, 115; AFG-OTP-00007173, paras 44-238; AFG-OTP-00002209, paras 48-49, 111-143; AFG-OTP-00002098; AFG-OTP-00002222 (RT: AFG-OTP-00005048); AFG-OTP-00002214 (RT: AFG-OTP-00005051); AFG-OTP-00002213 (RT: AFG-OTP-00005044); AFG-OTP-00007896, paras 31-41; AFG-OTP-00005874, para. 152; AFG-OTP-00003479, paras 54-62, 80-85, 97-100; AFG-OTP-00003190, p. 16, para. 117, paras 147-156; AFG-OTP-00006205, paras 140-142, 146-147, 149. See also AFG-OTP-00003022, para. 88.

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b) The targeting of persons perceived by the Taliban as allies of girls and women

34. The Prosecution submits that persons perceived to be allies of girls and women were targeted on the grounds of gender 'since the Taliban equated their non-conformity with the Taliban's ideologically informed views of gender with opposition to that ideology'.[65] It continues by asserting that '[p]erceived allies of girls or women were thus severely deprived of their fundamental rights because they opposed the Taliban's assumptions about gender, including the conduct which is appropriate for girls or women'.[66]

35. Without prejudice to any future determination on the matter, the Chamber considers that on the basis of the allegations and supporting material presented by the Prosecution, there are reasonable grounds to believe that the victims were targeted on political grounds. The Chamber notes that 'political' grounds 'do not pertain only to the victim's membership of a political party or adherence to a particular ideology but also to differences of opinion over public affairs, or (actual or presumed) political affiliations'.[67] In that sense, the perpetrator may define the targeted victims based on a subjective assessment as to what group or groups pose a political threat or danger.[68] Moreover, political persecution may occur when members of the group are targeted because they are perceived by the perpetrator as (potential) opponents or otherwise as obstacles to the implementation of the perpetrator's political agenda, even if these persons do not hold any particular political views.[69] Accordingly, political grounds may include actions, beliefs, or positions that challenge the political agenda, even if those actions are not tied to formal party affiliation and can materialise through differences of opinion or opposition that may not explicitly align with a specific ideology or political party.

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[65] See, e.g., Application, para. 123.
[66] Application, para. 123.
[67] Pre-Trial Chamber II, *Situation in Burundi*, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Burundi, 25 October 2017, ICC-01/17-9, para. 133.
[68] See, e.g., ECCC, Supreme Court Chamber, *Prosecutors v. Kaing Guek alias Duch*, Judgement, 3 February 2012, F28, para. 272.
[69] See, e.g., ECCC, Supreme Court Chamber, *Prosecutors v. Khieu Samphan and Nuon Chea*, Judgement, 23 November 2016, F36, para. 669.

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36. In the present case, the Chamber notes that the Taliban ideology translated into its governmental policy and that it expected not only the Taliban members but the whole Afghan population to abide by it. The Taliban explicitly identified anyone who failed to conform with its rules as politically opposed to the regime's objectives. This perceived opposition was not limited to individuals who actively resisted or failed to enforce Taliban rules and prohibitions but extended to those who, through acts of omission, refusal, or rejection, were seen as obstructing the implementation of the Taliban's agenda. As such, unlike the targeting of girls, women and other persons not conforming with the Taliban's ideological expectations of gender, gender identity or expression, the persecution of the group of the so-called 'allies' of girls and women was not motivated by gender-based criteria but rather by their perceived political non-conformity with the Taliban's ideology and governmental policy.

37. There are reasonable grounds to believe that persons perceived to be allies of girls and women were severely deprived of their fundamental rights, including the rights to freedom of assembly and expression, as well as the rights to liberty and freedom from torture.[70] In this regard, the material before the Chamber shows that: (i) protests in support of women's rights, often perceived as expressions of opposition to the Taliban regime, were repressed through the use of force, including warning shots, Taliban vehicles being driven into the crowds and beatings;[71] (ii) protesters or persons suspected of participating in protests were arrested and, in some cases, imprisoned and subjected to physical and mental abuse;[72] (iii) persons advocating for girls and women's rights, for example by distributing free books, or openly sharing their views against the conduct of the Taliban and their stance on the education of women and girls were arrested and, in some cases, subjected to physical and mental abuse;[73] and (iv) male

[70] Articles 7, 9-10, 21 of the ICCPR; articles 3, 5, 9, 19-20 of the UDHR.
[71] AFG-OTP-00003022, para. 67; AFG-OTP-00002682, paras 29-30; AFG-OTP-00000096, pp. 24-25; AFG-OTP-00002410, pp. 21-23; AFG-OTP-00002882, paras 68-80, 91-97, 100-113, 123-126, 135-146; AFG-OTP-00003547, paras 104, 112-118, 123-125; AFG-OTP-00005167, paras 67-73, 83-93; AFG-OTP-00005665, paras 82-84, 87-90, 115-121, 129; AFG-OTP-00005593, paras 63-64, 68, 78-79, 81, 83-84, 95-96, 99-108, 115, 119-120; AFG-OTP-00005688, paras 91-97; AFG-OTP-00009297, paras 47-49, 51-54, 59-60; AFG-OTP-00007171, paras 26-35, 44-45; AFG-OTP-00002452, paras 74-81; AFG-OTP-00005874, paras 140-142, 149-151; AFG-OTP-00003550, paras 76-83.
[72] AFG-OTP-00003550, paras 76-83, 92, 100-146, 162; AFG-OTP-00009297, paras 59-78, 83-102; AFG-OTP-00007171, paras 29-46; AFG-OTP-00002882, paras 155-181; AFG-OTP-00003547, paras 112, 129-209; AFG-OTP-00005665, paras 145-258; AFG-OTP-00005593, paras 123-125, 139-166; AFG-OTP-00005688, paras 109-161; AFG-OTP-00005513 paras 57-60, 78-89, 94-165.
[73] AFG-OTP-00005874, paras 140, 167-201; AFG-OTP-00002452.

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relatives of girls and women perceived by the Taliban as incapable of controlling them were often threatened, arrested and subjected to physical and mental abuse.[74]

38. The Chamber finds reasonable grounds to believe that Taliban members committed article 7(1) acts against at least 16 persons in connection with the severe deprivation of the rights of persons perceived to be allies of girls and women. These included imprisonment, torture, rape and other forms of sexual violence, and other inhumane acts.[75]

39. In light of the above, the Chamber is satisfied that (i) from at least 15 August 2021 until at least 20 January 2025, the Taliban severely deprived, at least, 16 persons of their fundamental rights; (ii) these persons were targeted for belonging to a group that was perceived by the Taliban as being allies of girls and women; (iii) such targeting was based on political grounds; and (iv) the conduct was committed in connection with various acts referred to in article 7(1) of the Statute.

3. Mr Agha's individual criminal responsibility

40. The Prosecution alleges that Mr Agha is criminally responsible for the crime against humanity of persecution under article 25(3)(d)(i) and/or (ii) of the Statute.[76] According to the Prosecution, he is '[f]urther or alternatively' responsible for having ordered, induced or solicited the same crime under article 25(3)(b) of the Statute or for having aided and abetted it within the meaning of article 25(3)(c) of the Statute.[77]

a) Mr Agha's role and status

41. Prior to the period relevant to the alleged crime, between 1996 and 2001, Mr Agha served as the director of the Criminal Chamber of Kandahar's City's primary court and remained committed to teaching thereafter.[78] Following the Taliban takeover of Kabul in 2021, Mr Agha was elected as the Head of the Council of Scholars of

[74] AFG-OTP-00002470, paras 129-134, 149; AFG-OTP-00002882, paras 186, 231-234; AFG-OTP-00007896, paras 31-46, 57; AFG-OTP-00000346, paras 111-113, 126.
[75] AFG-OTP-00005167, paras 84-94, 163, 165; AFG-OTP-00002452, paras 60-66, 74-81, 106-175, 182-185, 264; AFG-OTP-00004067/AFG-OTP-00009734; AFG-OTP-00002882, paras 83, 86-87, 90, 117-122, 146-147; 253; AFG-OTP-00007171, paras 30, 34-37, 39; AFG-OTP-00007966, paras 45-51; AFG-OTP-00005513, paras 57-60, 78-89, 94-165; AFG-OTP-00003486, para. 64, paras 85-165; AFG-OTP-00007171, paras 26-35, 44-45; AFG-OTP-00003107, paras 75-83; AFG-OTP-00005874, paras 176-187; AFG-OTP-00007896, paras 51-56; AFG-OTP-00003276, paras 48, 54-55, 57-58.
[76] Application, paras 135, 142-148.
[77] Application, paras 135, 149-150.
[78] AFG-OTP-00007983 (RT AFG-OTP-00009365).

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Kandahar Province.[79] On 20 September 2022, he was appointed by the Taliban Supreme Leader as Acting Minister of Education and has remained in that position since then.[80]

b) Actus reus

42. [REDACTED].[81] [REDACTED].[82]

43. [REDACTED];[83] [REDACTED];[84] [REDACTED].[85] [REDACTED];[86] [REDACTED];[87] [REDACTED].[88]

44. [REDACTED],[89] [REDACTED],[90] [REDACTED].[91]

45. [REDACTED]. Without prejudice to any future determination on the legal qualification of the suspect's acts and conduct, at this stage of the proceedings there are reasonable grounds to believe that Mr Agha ordered, induced or solicited the occurrence of the alleged persecution in the sense of article 25(3)(b) of the Statute, in particular with regard to the severe deprivations on the right to education of girls.

c) Mens rea

46. [REDACTED], [92] [REDACTED].[93]

47. [REDACTED].

48. [REDACTED].[94] Therefore, the Chamber considers that there are reasonable grounds to believe that Mr Agha acted with the intent and knowledge required by article 30 of the Statute.

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[79] AFG-OTP-00007983 (RT AFG-OTP-00009365).
[80] AFG-OTP-00007983 (RT AFG-OTP-00009365); AFG-OTP-00000555 (RT AFG-OTP-00005104).
[81] [REDACTED].
[82] [REDACTED].
[83] [REDACTED].
[84] [REDACTED].
[85] [REDACTED].
[86] [REDACTED].
[87] [REDACTED].
[88] [REDACTED].
[89] [REDACTED].
[90] [REDACTED].
[91] [REDACTED].
[92] [REDACTED].
[93] [REDACTED].
[94] [REDACTED].

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d) Conclusion

49. Accordingly, the Chamber concludes that there are reasonable grounds to believe that Mr Agha is criminally responsible within the meaning of article 25(3)(b) of the Statute for having ordered, induced or solicited the crime against humanity of persecution (article 7(1)(h) of the Statute).

B. Whether the arrest of Mr Agha appears necessary (article 58(1)(b) of the Statute)

50. With regards to the necessity of arrest, the Chamber notes that the alleged crime has been ongoing since at least August 2022, when Mr Agha already signed documents as the Acting Minister of Education, and have continued since then.[95] In this respect, Mr Agha did not show any willingness to stop contributing to the alleged persecution. To the contrary, he remains a core member of the inner circle of the Taliban leadership which is resolved to continue its 'struggle to implement sharia hudud and the religion of Allah and sharia', stating that it would 'fight with [the westerners] for a further twenty years – even longer than that' and that '[i]t doesn't end here'.[96] On the basis of the material before it, the Chamber is satisfied, in conformity with article 58(1)(b) of the Statute, that the arrest of Mr Agha appears necessary to ensure that he (i) appears at trial; (ii) does not obstruct or endanger the Prosecution's ongoing investigation; and (iii) does not continue with the commission of crimes within the jurisdiction of the Court arising out of the same circumstances.

IV. CLASSIFICATION OF THIS WARRANT OF ARREST

51. The Prosecution requests that 'any warrant of arrest is issued as a brief stand-alone document separate from the decision on the Application'.[97] In the circumstances, the Chamber does not find it appropriate to issue the decision as two stand-alone documents.

52. The Chamber considers it appropriate to issue the present warrant as under seal, in order to avoid the frustration of the investigations and to protect witnesses and

[95] See, e.g., AFG-OTP-00005531 (AFG-OTP-00005613; RT: AFG-OTP-00005614).
[96] See, e.g., AFG-OTP-00005531 (AFG-OTP-00005613; RT: AFG-OTP-00005614).
[97] Application, para. 5.

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victims. In this regard, the Chamber recalls [REDACTED] the Prosecution's confidentiality obligations in this regard.[98]

[98] [REDACTED].

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FOR THESE REASONS, THE CHAMBER HEREBY

ISSUES a warrant of arrest for Habibullah Agha, born in 1954 or 1955, for his alleged criminal responsibility pursuant to articles 25(3)(b) of the Statute, for the crime against humanity of persecution pursuant to article 7(1)(h) of the Statute, committed on the territory of Afghanistan from at least 23 August 2022 until at least 6 March 2025, as set forth in this warrant of arrest;

DECIDES that the warrant of arrest, currently classified under seal, *ex parte* Prosecution only, may be communicated, or its existence be revealed, and that the existence of the Prosecution's Application may be mentioned, to any State or international organisation for the purposes of the execution of the warrant of arrest;

ORDERS the Registry to, if a situation arises warranting to do so: (i) prepare a request for cooperation seeking the arrest and surrender of Mr Agha and containing the information and documents required by articles 89(1) and 91 of the Statute and rule 187 of the Rules of Procedure and Evidence; (ii) transmit, in consultation and coordination with the Prosecution, the request to the competent authorities of any relevant State, or to any international organisation, in accordance with article 87 of the Statute, to cooperate with the Court for the purpose of executing the request for arrest and surrender of Mr Agha; and (iii) submit a progress report on the status of the execution of the request for cooperation no later than 15 days after the request is made;

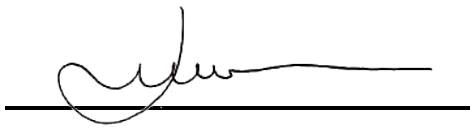
ORDERS the Registry to prepare and transmit to any relevant State, in consultation and coordination with the Prosecution, any request for transit pursuant to article 89(3) of the Statute or any request for provisional arrest pursuant to article 92 of the Statute which may be necessary for the surrender of Mr Agha to the Court;

ORDERS the Prosecution to transmit to the Registry all information available to it that may be of assistance in the execution of the request for arrest and surrender, as well as any information of relevance to assessing any risks to victims and witnesses associated with the transmission of the request for arrest and surrender;

ORDERS the Registry to register the warrant of arrest in the record of the situation and, once the suspect has been arrested, to open a case record and transfer first the Prosecutor's Application from the situation record into the case record;

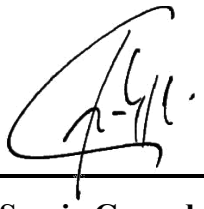
Pursuant to Pre-Trial Chamber II's order, ICC-02/17-249, this document is transferred from the situation record ICC-02/17 into the situation record ICC-02/26.

Done in English. A French translation will follow. The English version remains authoritative.



Judge Rosario Salvatore Aitala

Presiding



Judge Sergio Gerardo Ugalde Godínez



Judge Haykel Ben Mahfoudh

Dated this Monday, 5 October 2026

At The Hague, The Netherlands