ANNEX A

Public

Updated list of authorities

Submission Group A (Mr Mourad)

A1 *See e.g.* J. Pictet (ed.), *Commentary on the Fourth Geneva Convention* (Geneva: ICRC, 1958), p. 39. *See also See* K. Dörmann *et al* (eds.), *Commentary on the Second Geneva Convention* (Cambridge/Geneva: CUP/ICRC, 2017), p. 238. *See also mutatis mutandis* ECCC, *Case 001*, Judgment, 001/18-07-2007/ECCC/TC, 26 July 2010, paras. 458-463 (in the context of the grave breach regime under the Geneva Conventions); D. Harris *et al*, *Harris, O'Boyle and Warbrick: Law of the European Convetnion on Human Rights*, 3rd Ed. (Oxford: OUP, 2014), pp. 304-306 (on arbitrary detention).

A2 *See e.g.* J. Henckaerts and L Doswald-Beck, *Customary International Humanitarian Law, Volume I: Rules* (Geneva/Cambridge: ICRC/CUP, 2005), pp. 355-356; K. Dörmann *et al* (eds.), *Commentary on the Second Geneva Convention* (Cambridge/Geneva: CUP/ICRC, 2017), p. 240.

A3 Y. Sandoz *et al* (eds.), *Commentary on the Additional Protocols of 8 June 1977* (Geneva: ICRC, 1987), p. 1398, mn. 4600; K. Dörmann *et al* (eds.), *Commentary on the Second Geneva Convention* (Cambridge/Geneva: CUP/ICRC, 2017), p. 245, mn. 714.

A4 Y. Sandoz *et al* (eds.), *Commentary on the Additional Protocols of 8 June 1977* (Geneva: ICRC, 1987), p. 1398, mn. 4601.

A5 J. Henckaerts and L Doswald-Beck, *Customary International Humanitarian Law, Volume I: Rules* (Geneva/Cambridge: ICRC/CUP, 2005), pp. 354-357.

A6 *See* S. Sivakumaran, *The Law of Non-International Armed Conflict* (Oxford: OUP, 2012), pp. 70-71, 561; L. Doswald-Beck, 'Judicial guarantees under common article 3,' in A. Clapham *et al* (eds.), *The 1949 Geneva Conventions: a Commentary* (Oxford: OUP, 2015), p. 491.

A7 *See e.g.* UK Ministry of Defence, *The Manual of the Law of Armed Conflict* (Oxford: OUP, 2004), p. 404, mn. 15.42, fn. 94.

A8 *See e.g.* Y. Sandoz *et al* (eds.), *Commentary on the Additional Protocols of 8 June 1977* (Geneva: ICRC, 1987), p. 1399, mn. 4605; Y. Dinstein, *Non-International Armed Conflicts in International Law* (Cambridge: CUP, 2014), pp. 45, 144.

A9 L. Zegveld, *Accountability of Armed Opposition Groups in International Law* (Cambridge: CUP, 2002), p. 187.

A10 J. Pictet (ed.), *Commentary on the Third Geneva Convention* (Geneva: ICRC, 1960), p. 406.

A11 J. Pictet (ed.), *Commentary on the Fourth Geneva Convention* (Geneva: ICRC, 1958), p. 340 (defining "properly constituted" in article 66 as "regularly constituted"). *See also* United States, *Hamdan v. Rumsfeld*, 548 U.S. 557, 126 S. Ct. 2749 (2006), at 2797 (note 64).

A12 *See e.g.* S. Sivakumaran, *The Law of Non-International Armed Conflict* (Oxford: OUP, 2012), pp. 59 (fn. 44, citing Inter-American Commission on Human Rights), 307-308; K. Dörmann *et al* (eds.), *Commentary on the Second Geneva Convention* (Cambridge/Geneva: CUP/ICRC, 2017), pp. 241 (mn. 706: common article 3 may be interpreted by reference to article 6 of Additional Protocol II), 243 (mn. 708: common article 3 may be interpreted by reference to article 75 of Additional Protocol I); United States, *Hamdan v. Rumsfeld*, 548 U.S. 557, 126 S. Ct. 2749 (2006), at 2797 (interpreting common article 3 with reference to article 75 of Additional Protocol I); D. Casalin, 'Taking prisoners: reviewing the international humanitarian law grounds for deprivation of liberty by armed opposition groups,' [2011] Vol. 93, No. 883 *International Review of the Red Cross* 743, pp. 756-757. *But see* Dörmann *et al*, p. 150 (mn. 413: warning that not all aspects of the law of international armed conflict can be appropriately read into the law of non-international armed conflict, including in common article 3).

A13 J. Pictet (ed.), *Commentary on the Fourth Geneva Convention* (Geneva: ICRC, 1958), pp. 275-276.

A14 J. Pictet (ed.), *Commentary on the Fourth Geneva Convention* (Geneva: ICRC, 1958), p. 335.

A15 K. Dörmann *et al* (eds.), *Commentary on the Second Geneva Convention* (Cambridge/Geneva: CUP/ICRC, 2017), p. 191, mn. 539.

A16 Y. Sandoz *et al* (eds.), *Commentary on the Additional Protocols of 8 June 1977* (Geneva: ICRC, 1987), p. 1400, mn. 4607.

A17 K. Dörmann *et al* (eds.), *Commentary on the Second Geneva Convention* (Cambridge/Geneva: CUP/ICRC, 2017), pp. 201-210.

A18 J. Henckaerts and L Doswald-Beck, *Customary International Humanitarian Law, Volume I: Rules* (Geneva/Cambridge: ICRC/CUP, 2005), pp. 319-320, 374-379.

Submission Group B (Mr Cross)

B1 *See* ICC-01/12-01/15-84, paras. 40-44; ICC-01/12-01/15-171, paras. 11-18, 62-63.

B2 W. Schabas, 'Al Mahdi has been convicted of a crime he did not commit,' [2017] 49(1) *Case Western Reserve Journal of International Law* 75.

B3 W. Schabas, 'Al Mahdi has been convicted of a crime he did not commit,' [2017] 49(1) *Case Western Reserve Journal of International Law* 75, pp. 83-88.

B4 ICC-01/09-01/11-1938-Red-Corr, para. 18.

B5 ICJ, *Case concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)*, Jurisdiction and Admissibility, [1995] ICJ Rep 6, Dissenting Opinion of Judge Schwebel, p. 27.

B6 *See* R. Gardiner, *Treaty Interpretation*, 2nd Ed. (Oxford: OUP, 2015), p. 113 (quoting *Arbitration regarding the Iron Rhine (Ijzeren Rijn) Railway (Belgium/Netherlands)* (2005) XXVII RIAA 35, p. 63, para. 48).

B7 Y. Dinstein, *Non-International Armed Conflicts in International Law* (Cambridge: CUP, 2014), p. 183, mn. 577.

B8 *See* W. Schabas, 'Al Mahdi has been convicted of a crime he did not commit,' [2017] 49(1) *Case Western Reserve Journal of International Law* 75, p. 86 (fn. 44).

B9 *See* W. Schabas, 'Al Mahdi has been convicted of a crime he did not commit,' [2017] 49(1) *Case Western Reserve Journal of International Law* 75, p. 86 (fn. 52, citing *Report of the Secretary-General pursuant to paragraph (2) of Security Council Resolution 808* (1993), UN Doc. S/25704 (1993), paras. 41-44).

B10 *See* ICTY, *Prosecutor v. Strugar*, IT-01-42-T, Judgment, 31 January 2005, paras. 214, 298-312, 317, 327-330. *See also e.g.* ICTY, *Prosecutor v. Kordić and Čerkez*, IT-95-14/2-T, Judgment, 26 February 2001, paras. 358-362.

B11 *See* ICTY, *Prosecutor v. Strugar*, IT-01-42-A, Judgment, 17 July 2008, para. 277.

B12 Y. Dinstein, *Non-International Armed Conflicts in International Law* (Cambridge: CUP, 2014), p. 162, mn. 514.

Submission Group C (Ms Luping)

C1 *See* ICC-01/04-01/06-2842, paras 984-986; ICC-01/05-01/13-1989-Red, para 67; ICC-01/04-01/06-803-tEN, para 344.

C2 *See* ICC-01/05-01/13-2275-Red, para.1306; ICC-01/04-01/06-2842, paras.984, 988, and 1135; ICC-01/05-01/13-1989-Red, para.66; ICC-01/04-01/06-803-tEN, para.345; ICC-01/09-02/11-382-Red, para.399; ICC-01/09-01/11-373, para.301.

C3 *See Prosecutor v Sesay et al*,. Case No. SCSL-04-15-T, Judgment, 2 March 2009, paras.1984-1985, 1979-1982; Prosecutor v Prlic et al., Case No. IT-04-74-T, Judgment, 29 May 2013, para. 45; Prosecutor v Karamera et al., Case No. ICTR-98-44-T, Judgment and Sentence, 2 February 2012, paras. 1450-1455.

C4 *See* ICC-01/05-01/13-2275-Red, paras. 812, 821.

C5 *See* ICC-01/05-01/13-2275-Red, paras. 1307, 1029.

C6 *See* ICC-02/04-01/15-422-Red, para.38.

C7 *See* ICC-01/05-01/13-2275-Red, para.820.

C8 *See* Germany, District Court Luneburg, Oskar Groning, 27 KS 1191 Js 98402/13 (9/14), 15 July 2015; Helena Kopper, Stanislawa Starotska and Erich Zoddel: United Kingdom, British Military Court, Case no. 10(Trial of Josef Kramer and 44 others), Law Reports of Trials of War Criminals, Volume II; Attorney-General of the Government of Israel v. Eichmann (Israel Sup. Ct. 1962); Germany, Munich Regional Court, *Landgericht München II 640930/BGH 651026, Germany v. Karl Friedrich Otto Wolff, 30 September 1964, case nr 580* (Published in Justiz und NS-Verbrechen Vol. XX).

C9 *See Prosecutor v Stanisic and Zupljanin*, IT-08-91-A, Judgment, 30 June 2016, paras 109-112.

C10 *See* ICC-02/11-02/11-186, para. 136; ICC-01/04-01/06-2842, para. 994; ICC-01/05-01/13-1989-Red, para. 62; ICC-01/04-01/07-717, paras 524 and 488(b).

C11 *See* ICC-01/04-01/06-3121-Red, para. 447; ICC-01/05-01/08-424, para 362.

C12 *See* ICC-01/05-01/13-2275-Red, para.1400; ICC-01/05-01/13-1989-Red, para.98. *See also Karera v Prosecutor*, Case No. ICTR-01/74-A, Judgment, 2 February 2009, para.321; *Prosecutor v Blaskic*, Case No. IT-95-14-A, Judgment, 29 July 2004, para.50.

C13 *See* ICC-01/05-01/13-2275-Red, para.1330.

C14 *See* ICC-01/05-01/13-2275-Red, para.1308. *Prosecutor v Sainovic et al.*, Case No. IT-05-87-A, Judgment, 23 January 2014, para.1491; *Prosecutor v Kvocka et al.*, Case No. IT-98-30/1-A, Judgment, 28 February 2005, para.276.

C15 *See* ICC-01/04-01/07-3436, para.1627; ICC-01/04-01/10-465-Red, para.271; ICC-01/04-01/06-803-tEN, para.344.

C16 *See* ICC-01/04-01/07-3436, paras. 1626, 1627, 1630, footnote 3592.

C17 *See Prosecutor v Brdanin*, Judgment, Case No. IT-99-36-A, 3 April 2007, paras.418, 420-425; *Prosecutor v Brima et al*., Judgment, Case No. SCSL-2004-16-A, para.76.

C18 *See* ICC-01/05-01/13-2275-Red, para.1308; *Prosecutor v Sainovic et al*._, Case No. IT-05-87-A, 23 January 2014, para.1491; *Prosecutor v Kvocka et al*, Case No. IT-98-30/1-A, Judgment, 28 February 2005, para.276.

C19 *See* ICC-02/04-01/15-422-Red, para.30.

C20 *See* ICC-01/04-01/06-2205, para.77; ICC-01/04-01/07-3363 paras. 22, 104.

C21 *See* ICC-02/04-01/15-422-Red, para.31.