

PUBLIC ANNEX A

Reference list for hearing in the case ICC-01/11-01/11: “The Prosecutor v. Saif Al-Islam Gaddafi” (A08), on 11 and 12 November 2019

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2. Office of the High Commissioner for Human Rights, [Rule-of-Law Tools for Post-Conflict States: Amnesties](#), Doc. No. HR/PUB/09/1, 2009, pp. 5, 43; ICC-01/11-01/11-662-Anx (“[Judge Perrin de Brichambaut Separate Concurring Opinion](#)”), para. 116.
3. Office of the Prosecutor, [Policy Paper on Preliminary Examinations](#), November 2014, paras. 50-58; Office of the Prosecutor, [Informal expert paper: The principle of complementarity in practice](#), 2003, annexes 4, 6-7.
4. Holmes, J., in Cassese, Gaeta and Jones (eds.), *The Rome Statute of the International Criminal Court: a Commentary* (Oxford: OUP, 2002), pp. 673-674; Holmes, J., “The Principle of Complementarity” in Lee, R.S., (ed.), *The International Criminal Court: The Making of the Rome Statute – Issues, Negotiations, Results* (The Hague: Kluwer Law, 1999), pp. 49-56; ICC-01/11-01/11-565 (“[Al-Senussi Admissibility Appeal Judgment](#)”), para. 191.
5. ICC-02/05-01/09-397 (“[Al-Bashir Jordan Referral Appeal Judgment](#)”), para. 123; see also ICC-02/05-01/09-397-Anx1 (“[Al-Bashir Joint Concurring Opinion](#)”), paras. 207-208, 218.

6. ICC-01/11-01/11-466-Red ("[Al-Senussi Admissibility Decision](#)"), paras. 221, 243; ICC-01/11-01/11-344-Red ("[Gaddafi Admissibility Decision](#)"), paras. 200, 202.

7. Henckaerts, J.M., and Doswald-Beck, L., [Customary International Humanitarian Law, Volume 1: Rules](#) (Cambridge, CUP 2005), Rules 158 and 159, pp. 607-614; ICRC, "Report: International Humanitarian Law and the challenges of contemporary armed conflicts", Doc No. 31IC/11/5.1.2, October 2011, available at <http://e-brief.icrc.org/wp-content/uploads/2016/08/4-international-humanitarian-law-and-the-challenges-of-contemporary-armed-conflicts.pdf>, p. 50; [Judge Perrin de Brichambaut Separate Concurring Opinion](#), fn. 137; Inter-American Commission on Human Rights, [Massacres of El Mozote and Nearby Places v. El Salvador](#), Judgment, 25 October 2012, paras. 284-286; IACtHR, [Lucio Parada Cea and Others v. El Salvador](#), Application No. 1/99, 27 January 1999, para. 115; UNSC, [Resolution 1120](#), U.N. Doc. S/RES/1120, 14 July 1997, para. 7; UNSC, [Resolution 1315](#), U.N. Doc. S/RES/1315, p. 1; Ntoubandi, F.Z., *Amnesty for Crimes against Humanity under International Law*, (Boston/Leiden: Martinus Nijhoff Publishers, 2007), pp. 223-225.

8. Treaties: [Geneva Convention I](#), article 49; [Geneva Convention II](#), article 50; [Geneva Convention III](#), article 129; [Geneva Convention IV](#), article 146; [Additional Protocol I](#), article 85(1); [Convention against Torture](#), article 7; [Universal Declaration on Human Rights](#), article 8 (effective remedy); [International Covenant on Civil and Political Rights](#), article 2(1) (duty to respect and ensure), article 2(3) (effective remedy), article 6 (right to life), and article 14(1) (right to a fair trial); [African Charter on Human and People's Rights](#), article 4 (right to life), article 7 (right to fair trial) and article 25 (duty to promote rights); [Arab Charter on Human Rights](#), article 2 (duty to ensure) and article 5 (right to life); [American Convention on Human Rights](#), article 1

(duty to respect and ensure), article 4 (right to life), article 8 (right to a fair trial), article 9 (right to legal remedy) and article 25 (right to judicial protection); [European Convention on Human Rights](#), article 1 (duty to secure), article 2 (right to life), article 6 (right to a fair trial), article 13 (right to an effective remedy), article 41 (just satisfaction).

ILC: [Report of the International Law Commission, Seventy-first session](#), Chapter 4, Crimes against Humanity, Advance version, 20 August 2019, article 10 (at p. 15), *see also* pp. 92-98.

Human Rights Committee: [General comment No. 36 \(2018\) on article 6 of the International Covenant on Civil and Political Rights, on the right to life](#), 30 October 2018, paras. 19, 27; [General Comment No. 20: Article 7 \(Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment\)](#), 10 March 1992, para. 15; [General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant](#), 29 March 2004, paras. 15, 18.

ECCC: Case 002, [Decision on Ieng Sary's Rule 89 Preliminary Objections \(*Ne bis in idem* and Amnesty and Pardon\)](#), 3 November 2011, paras. 37-55; Case 002, [Decision on Ieng Sary's Appeal against the Closing Order](#), 11 April 2011, paras. 200-201; SCSL: *Prosecutor v. Morris Kallon & Another*, SCSL-2004-15-AR72(E), [Decision on Challenge to Jurisdiction: Lomé Accord Amnesty](#), 13 March 2004, para. 84;

IACtHR: [Barrios Altos v. Perú](#), Judgment (Merits), Series C No. 75, 14 March 2001, para. 41; [Almonacid-Arellano et al v. Chile](#), Judgment, (Preliminary Objections, Merits, Reparations and Costs), Series C No. 154, 26 September 2006, paras. 110-111, 114, 126, 129; [Gelman v. Uruguay](#), Judgement (Merits and Reparations), Series C No. 221, 24 February 2011, paras. 188-191, 195, 212, 227, 229, 232; African Commission on Human and People's Rights: [Mouvement Ivoirien des Droits Humains \(MIDH\) / Cote d'Ivoire](#), Communication No. 246/02, Decision, 29 July 2008, paras. 91, 98, [Zimbabwe Human rights NGO Forum v.](#)

[Zimbabwe](#), Communication no. 245/2002, Decision, 15 May 2006, paras. 211, 215.

ECtHR: [Marguš v. Croatia](#), Application no. 4455/10, Judgment (Merits and Just Satisfaction), 13 November 2012, paras. 74, 76; [Marguš v. Croatia](#), Application no. 4455/10, Judgment (Merits and Just Satisfaction), 27 May 2014, paras. 139-140; [Okkali v. Turkey](#), Application no. 52067/99, Judgment (Merits and Just Satisfaction), 17 October 2006, para. 76; [Abdülsamet Yaman v. Turkey](#), Application no. 32446/96, Judgment (Merits and Just Satisfaction), 02 November 2004, para. 55.

9. [Vienna Convention on the Law of Treaties](#), article 27; ICJ, [Questions Relating to the Obligation to Prosecute or Extradite \(Belgium v. Senegal\)](#), Judgment, 20 July 2012, para. 113; IACtHR, [Mendoza et al. v. Uruguay](#), Cases 10.029, 10.036, 10.145, 10.305, 10.372, 10.373, 10.374 and 10.375, Report No. 29/92, 2 October 1992, para. 32; African Commission: [Malawi African Association et al. v. Mauritania](#), Communication no. 54/91, 61/91, 98/93, 164/97, 196/97, 210/98, Decision, 11 May 2000, para. 83; [Al-Bashir Jordan Referral Appeal Judgment](#), para. 125.
10. ICC-01/04-01/07-1497 OA8 (“[Judgment Ngudjolo Admissibility Appeal Judgment](#)”, para. 79; ICC-01/04-01/06-2205 OA15 OA16 (“[Lubanga Regulation 55 Appeal Judgment](#)”), para. 77; ICC-02/05-01/09-397-Anx2 (“[Al-Bashir Joint Dissenting Opinion](#)”), para. 32; Gardiner, R., *Treaty Interpretation*, 2nd ed. (Oxford: Oxford University Press, 2015), p. 211.
11. IACtHR, [Barrios Altos v. Perú](#), Monitoring Compliance with Judgment, Order of the Inter-American Court of Human Rights of 7 September 2012 (only in Spanish), paras. 55-57; IACtHR, [Barrios Altos and Case of La Cantuta v. Perú](#), Monitoring Compliance with Judgment, Order of the Inter-American Court of

Human Rights of 30 May 2018 (only in Spanish), paras. 31, 38-39, 45-47; IACtHR, [Gómez-Paquiyaury Brothers v. Peru](#), Merits, Reparations and Costs, 8 July 2004, paras. 145, 232.

12. ILC, "[Commentary on Draft Code of Crimes against Peace and Security of Mankind](#)", *Yearbook of the International Law Commission*, Vol. II, Part Two, 1996, article 12(2) and article 12(9); [Report of the Preparatory Committee for the Establishment of the International Criminal Court, Volume I](#), U.N. Doc. A/51/22, March-April and August 1996, para. 173 and 174; United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, "[Report of the Preparatory Committee on the Establishment of an International Criminal Court](#)", U.N. Doc. A/CONF.183/2/Add.1, 14 April 1998, Article 19, p. 46; "[Draft Statute for the International Criminal Court: Part 2. Jurisdiction, admissibility and applicable law: Article 13. Ne bis in idem](#)", U.N. Doc. A/AC.249/1998/CRP.20, 31 March 1998, fn. 4; *see also* United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Committee of the Whole, "[Summary Record of the 11th Meeting](#)", U.N. Doc. A/CONF.183/C.1/SR.11, 20 November 1998, pp. 5-10; Holmes, J., "The Principle of Complementarity", in Lee, R.S. (ed.), *The International Criminal Court. The Making of the Rome Statute: Issues, Negotiations, Results* (The Hague: Kluwer Law, 1999), pp.56- 60, 76-77.
13. ICC-01/04-01/06-3466-AnxII ("[Lubanga Reparations Separate Opinion](#)"), para. 74.