

**THE AFRICAN COURT OF JUSTICE AND HUMAN AND PEOPLES' RIGHTS  
THE 2024 FIAE INTERNATIONAL HUMANITARIAN LAW MOOT COURT COMPETITION**

**IN THE MATTER BETWEEN**

**PROSECUTION**

**V.**

**GENERAL RAHAMA (DEFENDANT)**

**MEMORIAL FOR THE DEFENSE**

**15 PAGES**

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## **List of Abbreviations**

ACJHPR	African Court of Justice and Human and Peoples' rights
AP I	Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Protections of Victims of International Armed Conflicts (Protocol I), 8 June 1977
AP II	Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977
AUPSC	African Union Peace and Security Council
CIHL	Customary International Humanitarian Law
IAC	International Armed Conflict
ICRC	International Committee of the Red Cross
ICTY	International Criminal Tribunal for the former Yugoslavia
IHL	International Humanitarian Law
NIAC	Non-International Armed Conflict
SOP	Standard Operating Procedure
UN Charter	1945 Charter of the United Nations
UNSC	United Nations Security Council
Art.	Article
Para.	Paragraph

## **List of Authorities**

### **Books/Article**

- Dr. Emma Irving, D. R. (2019). Leiden Guidelines on the Use of Digitally Derived Evidence in International Criminal Courts and Tribunals. Leiden : Kalshoven-Gieskes Forum
- Geiß, R., & Lahmann, H. (2021). Protection of Data in Armed Conflict. *International Law Studies*, 557-572
- Gilbert, D. (2023, October 9). The Israel-Hamas War Is Drowning X in Disinformation. Retrieved April 23, 2024, from Wired : <https://www.wired.com/story/x-israel-hamas-war-disinformation/>
- Jean-Marie Henckaerts, L. D.-B. (2009). Customary International Humanitarian Law Volume I: Rules. New York, New York , United States of America : Cambridge University Press
- Mark Klamberg, *Commentary on the Law of the International Criminal Court*, (Torkel Opsahl Academic EPublisher, 2017)
- Melzer, N. (2016). *International Humanitarian Law: A Comprehensive Introduction*. Geneva: International Committee of the Red Cross. (Page 287)
- Roy S. Lee, *The International Criminal Court: Elements of Crimes and Rules of Procedure and Evidence* (2001),

### **Laws/ Treaties/ Conventions**

- Customary International Humanitarian Law
- Convention on Cluster Munitions
- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977
- Protocol on amendments to the protocol statute of the African court of justice and human Rights 1 July 2008 (The Malabo Protocol)
- Rome Statutes of the International Criminal Court, 17 July 1998

## Cases

- Prosecutor v. Bosco Ntaganda, (Judgement on charges) ICC-01/04-02/06, (8 July 2019)
- Prosecutor v Dario Kordic & Mario Cerkez (Judgment on Charges) IT-95-14/2 (26 February 2001)
- Prosecutor v Dragoljub Kunarac Radomir Kovac and Zoran Vukovic (Judgment on Charges) IT-96-23-T& IT-96-23/1-T (22 February 2001)
- Prosecutor v Haradinaj (judgment on Charges) IT-04-84-T (3 April 2008)
- Prosecutor v Jadranko Prlić (Judgment on Charges) IT-04-74-T (29 May 2013)
- Prosecutor v. Radovan Karadžić, (Judgement on charges) IT-95-5/18-T (24 March 2016)
- Prosecutor v Tadic (Opinion and judgment) IT-94-1-T (7 May 1997)
- Prosecutor v Thomas Lubanga (Decision on the confirmation of charges) ICC-01/04-01/06 (24 February 2006)

## **Issue One: Jurisdiction and Admissibility**

### **1. Statement of Jurisdiction**

#### **1.1. The contextual requirement of armed conflict is not fulfilled**

In Delaïc et al. the trial chamber of the ICTY asserted that, “In order to apply the body of law termed "international humanitarian law" to a particular situation it must first be determined that there was, in fact, an "armed conflict", whether of an internal or international nature. Without a finding that there was such an armed conflict it is not possible for the Trial Chamber to progress further to its discussion of the nature of this conflict...”

An armed conflict exists whenever there is a resort to armed force between States or armed violence between governmental authorities and organized armed groups or between such groups within a State.<sup>1</sup> The Defense submits that the intensity threshold and the organization of the Tahadhari forces are not fulfilled. Therefore, they are not an armed group.

#### **I. The intensity of the conflict between the Bantu and Azania has not reached the “protracted” requirement in Tadic.**

The Defense considered the following variables to determine the intensity of the conflict between Bantu and Azania. The seriousness of attacks and whether there has been an increase in armed clashes,<sup>2</sup> whether the numbers of clashes have increased over time and across territory,<sup>3</sup> whether the conflict has drawn the attention of the UN Security Council, and whether any resolutions have been passed regarding it.<sup>4</sup>

The Defense submits that after the aerial bombing raid launched by the Bantuan forces on December 23, 2020,<sup>5</sup> the armed clashes between the Bantuan forces and the Azania government was reduced. On February 2021, General Rahama approved Operation Sogoli which led to armed clashes between Azanian and Bantuan forces within the Daura region. As a result of the counter attack by Azania’s military, Bantu’s military faced a setback and was weakened to continue the conflict with Azania’s military which decreased the frequency of clashes between the two forces<sup>6</sup>

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<sup>1</sup> [Prosecutor v Dragoljub Kunarac et al., Cases No. IT-96-23-A and IT-96-23/1-A, Judgement \(AC\), 12 June 2002](#), Para. 56

<sup>2</sup> Tadic Trial Judgment, Para 565

<sup>3</sup> Kordic Appeal Judgment, Para 340-341

<sup>4</sup> Tadic Trial Judgement, Para 567;

<sup>5</sup> Statement of Fact, Para. 15

<sup>6</sup> Statement of Fact, Para. 16

The conflict between Bantu and Azania did not attract international attention. Though the UNSC held an emergency session to address the matter, no resolution was passed by the Security Council on the matter.<sup>7</sup>

## **II. The Tahadhari forces are not sufficiently organized to constitute a party to an armed conflict**

The main indicative factors of organization of the parties include hierarchical structure and chain of command, capacity to plan and launch coordinated military operations, capacity to recruit, train and equip new combatants, existence of an internal regulation or a code of conduct, commanders have a minimum capacity to control the members of the group and thus to ensure respect for IHL and control of territory.<sup>8</sup>

In the case at hand the Tahadhari forces don't have the capacity to plan and launch coordinated operations as they are substantially backed by the Changamire military for combat planning and strategy for operations.<sup>9</sup> In addition their capacity to train and equip their combatants is primarily dependent on Changamire which makes them insufficient on their military capacity.

The Tahadhari forces have no mechanism of keeping discipline except for the direct orders received from General Vuta;<sup>10</sup> they have no internal regulation or a code of conduct to enable them to ensure respect for IHL.

### **2. The case against General Rahama is not admissible**

The admissibility test is composed of two cumulative parts; the consideration of the complementarity criteria in order to determine whether the case at hand has been or is being genuinely investigated or prosecuted by a state's national judicial system and the analysis of the "gravity threshold".<sup>11</sup>

The national judicial system of Azania was not in a position to investigate or prosecute the case.<sup>12</sup> This indicates that the test of complementarity is fulfilled.<sup>13</sup> Nonetheless, the Defense reserves the right to challenge the admissibility of the case for reason of insufficient gravity.

In order to determine whether a case is sufficiently grave to warrant the Court's intervention, two features must be considered: first, "the conduct which is the subject of a case must be either systematic

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<sup>7</sup> Ibid, Para. 21

<sup>8</sup> *Prosecutor vs. Haradinaj*, IT-04-84-T, Judgment, 3 April 2008, para. 199-206

<sup>9</sup> Statement of Fact, Para. 19

<sup>10</sup> Ibid, Para. 18

<sup>11</sup> Mark Klamberg, *Commentary on the Law of the International Criminal Court*, (Torkel Opsahl Academic EPublisher,2017),206

<sup>12</sup> Statement of Fact, Para. 26

<sup>13</sup> Malabo Protocol, Art. 46H

(pattern of incidents) or large-scale”. Second, the assessment of gravity must give due consideration “to the social alarm such conduct may have caused in the international community.”<sup>14</sup> As explained above the situation in Azania is not large scale but rather reduced overtime and has not attracted international attention.

## **Issue Two: Counts**

There is a lack of substantial ground to believe that the following war crimes occurred as per Article 28D of the Malabo Protocol.

**Count One:** The lack of substantial ground to believe that the war crime of excessive incidental death, injury, or damage has been committed contrary to Article 28d of the Malabo Protocol.

### **I. The death of the Dauran farmers is not clearly excessive in relation to the concrete and direct overall military advantage anticipated over Azania’s military installation.**

Attacks that cause excessive incidental harm compared to the concrete and direct military advantage anticipated are prohibited.<sup>15</sup> The Bantuan forces had a target to destroy the Azanian military installations preparing for a ground invasion to attack them,<sup>16</sup> the anticipated military advantage must be “concrete” and “direct” and not of a merely speculative nature,<sup>17</sup> in this particular case the Defense provides the attack was aimed at a military advantage over Azanian federal troops and the military advantage to be gained over this forces was from the aerial bombing raid which is a specific operation launched and not from the whole operation.<sup>18</sup>

From the definition of military objectives it can be inferred that for an object to qualify as a military objective it has to be in current use of the adversary’s military action<sup>19</sup>, Dauran-Bantu border was in use by the Azanian federal troops as a place of preparation to launch a ground invasion and in addition intelligence assessments indicated the presence of special forces and drone footage confirmed the non-existence of any farmers within the area. <sup>20</sup> In addition the attack proved a definite military advantage in the circumstances ruling at the time as a resolution was passed and Azanian Special

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<sup>14</sup> (Prosecutor v. Thomas Lubanga (Case No. ICC-01/04-01/06), ICC Pre-Trial Chamber I, Decision Concerning PreTrial Chamber I’s Decision of 10 February 2006 and the Incorporation of Documents into the Record of the Case against Mr. Thomas Lubanga Dyilo, 24 February 2006, Annex 1, Para. 46).

<sup>15</sup> API Art. 51 (5) (b)

<sup>16</sup> Statement of Fact, Para. 15

<sup>17</sup> Nils Melzer, *International Humanitarian Law: A comprehensive introduction*, (ICRC, 2019),101

<sup>18</sup> Nils Melzer, *International Humanitarian Law: A comprehensive introduction*, ICRC,( 2019), p. 101

<sup>19</sup> Ibid, page 92

<sup>20</sup> Statement of Fact, Para. 15



Forces were situated during the time the attack was launched by the Bantuan forces,<sup>21</sup> hence, this fulfills both criteria to be considered a military objective.

The feasibility of precautionary measures depend on a multitude factors one being the urgency of military action<sup>22</sup>, in this particular case the Bantuan forces had to take an immediate action as there was a preparation for a ground invasion from the Azanian side with the use of special forces. In addition the Bantuan forces took a precautionary measure by verifying that their target is indeed a military objective and not prohibited to be attacked.

**II. The Bantuan forces did not know or could not have known that the aerial bombing raid would cause excessive incidental death compared to the concrete and direct military advantage anticipated.**

The commentary to article 85 sub article 3b of API defines the words "in the knowledge" to the common constitutive elements set out in the opening sentence: therefore there is only a grave breach if the person committing the act “knew with certainty that the described results would ensue”, and this would not cover recklessness. The Bantuan forces made prior intelligence assessments<sup>23</sup> before conducting the attack and made sure their aim was a military objective and drone footage confirmed the non-existence of any farmers within the area and not subject to civilian objectives, their aim was to gain a direct and concrete military advantage by attacking the installations that housed Azania Special Forces did not know that their attack would cause Dauran farmers death.

While the requirement of proportionality is absolute, the standard of “excessiveness” is relative. IHL does not establish an objective threshold above which the infliction of incidental harm would always be excessive.<sup>24</sup> Considering the high military advantage anticipated the Bantuan forces couldn’t have known which level of harm would be excessive as it is not under their control.

**III. The aerial bombing raid did not take place in the context of and was not associated with an international armed conflict.**

An armed conflict is international if it takes place between two or more States. In addition, in case of an internal armed conflict breaking out on the territory of a State, it may become international (or depending upon the circumstances, be international in character alongside an internal armed conflict) if

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<sup>21</sup> Statement of Fact, Para. 15

<sup>22</sup> Nils Melzer, *International Humanitarian Law: A comprehensive introduction*, ICRC, (2019), p. 104

<sup>23</sup> Statement of Fact, Para. 15

<sup>24</sup> Nils Melzer, *International Humanitarian Law: A comprehensive introduction*, ICRC,( 2019), p. 101

(i) another State intervenes in that conflict through its troops, or alternatively if (ii) some of the participants in the internal armed conflict act on behalf of that other State.<sup>25</sup>

When the Bantu forces launched the attack on December 23, 2020 there was no such circumstance that could make it international as there was no intervention from any state as well as participants that act on behalf of another state.

#### **IV. The Bantuan forces were not aware of factual circumstances that established the existence of an armed conflict.**

The mental element of awareness is fulfilled when in practice; it would be so obvious that there was an armed conflict that no additional proof as to the awareness of the perpetrator would be required.<sup>26</sup> As explained above the attack on Azania military installation was not as such to be in the context of an armed conflict.

#### **Count Two: The lack of substantial ground to believe that the War Crime of Employing Weapons, projectiles and materials and methods of warfare occurred.**

##### **I. The Cluster Munitions put to use are in line with IHL**

As per the definition provided in the convention on cluster munitions, it excludes those with explosive sub-munitions designed to detect and engage a single target object<sup>27</sup>. The cluster munitions function solely according to the directives outlined in the Standard Operating Procedure (SOP) and are exclusively deployable through an AI System programmed to adhere to the SOP<sup>28</sup>. As per the facts in paragraph 22, the SOP strictly outlines the use of cluster munitions in areas clear of civilians and civilian objects. This enables the weapon to only target military objects essentially excluding it from those kinds of weapons banned in the Convention on Cluster Munitions.

Moreover, the weapon does not fall within the purview of Article 51 (4) (b & c) of Additional Protocol I because, as previously mentioned, it can be controlled and restricted. Even if we were to look at Customary International Humanitarian Law, Rule 72 states that there is still contesting opinions on whether a customary rule is enough to make a weapon illegal or if a treaty or a specific rule banning

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<sup>25</sup> ICTY, [Tadić Appeal judgment, 15 July 1999](#), Para. 84.

<sup>26</sup> Roy S. Lee, *The International Criminal Court: Elements of Crimes and Rules of Procedure and Evidence* (2001), p. 123:

<sup>27</sup> The Convention on Cluster Munitions Article (2)(c)(iii)

<sup>28</sup> Statement of Fact, Para 22

that specific weapon is required<sup>29</sup>. In the first scenario, CIHL does not have a specific provision banning the use of cluster munitions nor is there a guideline on how to use them. For the second scenario, the weapon that was used on October 3<sup>rd</sup> is in line with the treaty that governs such weapons i.e. Convention on Cluster Munitions. In both, its nature and how it was deployed, the weapon used for the attack was not an indiscriminate one.

## **II. Necessary Precautions were taken during the attack**

We once again look at the Standard Operating Procedure that was used during the attack to show that all necessary and feasible cautions were taken before and during the deployment of the attack. Prudence is necessary when selecting means of attack<sup>30</sup>, and a weapon equipped with an AI system designed exclusively to target military objectives serves as proof that careful consideration was given to the choice of means of war<sup>31</sup>. Another method of precaution is giving citizens effective warning if there is a possibility of the attack affecting them<sup>32</sup>. The SOP mandates for a notice warning the citizens to evacuate the areas which were targets of the attack to be deployed 48 hours in advance<sup>33</sup>. Hence, it is evident that all required and achievable precautions were exercised through examination of both the selection of means of warfare and the implementation of effective warning systems for civilians.

## **III. The images from social media are unreliable**

In light of the exponential growth of social media, disinformation and misinformation are more prevalent now than ever. The environment created by social media platforms has created this wide spread desire of gaining view counts and likes. Platforms are currently serving the interests of war propagandists who garner large numbers of views due to the shock value of their content. Because of this, the platforms themselves are not keen on making sure that verified information is delivered. The situation on social media has deteriorated to the point where even experienced researchers are falling victim to fake accounts and fake news.<sup>34</sup>

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<sup>29</sup> Jean-Marie Henckaerts, L. D.-B. (2009). Customary International Humanitarian Law Volume I: Rules. New York, New York , United States of America : Cambridge University Press (Page 259 - 250)

<sup>30</sup> AP I, Art 57 (2)(a)(ii)

<sup>31</sup> Statement of Fact, Para 20 & 22

<sup>32</sup> AP I, Art 57 (2)(c)

<sup>33</sup> Statement of Fact, Para 20

<sup>34</sup> Gilbert, D. (2023, October 9). The Israel-Hamas War Is Drowning X in Disinformation. Retrieved April 23, 2024, from Wired : <https://www.wired.com/story/x-israel-hamas-war-disinformation/>

When accepting photographs as evidence in international court, one must look at their date, location and must understand the events depicted. If photos don't include such information, it is difficult to assess their probative value, essentially making them unable to prove a fact.<sup>35</sup> And when a court decides on the relevance or admissibility of evidence, one thing they must look at is its probative value<sup>36</sup>. The graphic images that went viral are neither dated nor do they show any relevant information as to the events they depict<sup>37</sup>. These photos lack probative value and rely solely on their virality, which, due to the unreliable nature of social media, cannot be deemed as demonstrating relevance or admissibility in the eyes of any court.

#### **IV. The drone footage presented by President Fahari is unreliable**

Aerial footages can't automatically be admissible in court, they must fulfill certain criteria. One such requirement is for the images to be contemporaneous to the events they purport to be depicting<sup>38</sup>. If there is a significant period of time between the aerial footage and the events, then it can't beyond reasonable doubt prove that the footage is a depiction of the events<sup>39</sup>. From a cumulative reading of paragraph 21 and 22 of the statement of facts, we can deduce that President Fahari released after the graphic images went viral. The footage was released after October 29, almost a month after the attack which took place on October 3<sup>rd</sup><sup>40</sup>. In a similar instance, the ICC Trial Chamber in the case of Prosecutor v Ntaganda determined that Images captured more than a month after an attack are of limited utility in determining whether, and how, any destruction occurred during the events under scrutiny<sup>41</sup>.

**Count Three: Lack of substantial ground to believe that the War Crime of Intentionally directing attacks against civilian objects, that is, objects which are not military objectives Contrary to Article 28D of Malabo Protocol occurred.**

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<sup>35</sup> The Prosecutor v. Bosco Ntaganda, (2019), ICC-01/04-02/06

<sup>36</sup> Rome Statute of the International Criminal Court, Art 69 (4)

<sup>37</sup> Statement of Fact, Para 21

<sup>38</sup> Dr. Emma Irving, D. R. (2019). Leiden Guidelines on the Use of Digitally Derived Evidence in International Criminal Courts and Tribunals. Leiden : Kalshoven-Gieskes Forum .

<sup>39</sup> The Prosecutor v. Bosco Ntaganda, (2019), ICC-01/04-02/06

<sup>40</sup> Statement of Fact, Para 20

<sup>41</sup> Dr. Emma Irving, D. R. (2019). Leiden Guidelines on the Use of Digitally Derived Evidence in International Criminal Courts and Tribunals. Leiden : Kalshoven-Gieskes Forum .

## **I. The elements of the crime are not satisfied**

- A. **There was no attack**: What happened on November 2<sup>nd</sup> was not an attack but simply a cyber-operation. Article 49 of the Geneva Conventions AP I states the definition of attack classifying them as land, air and sea warfare<sup>42</sup>. From the definition we can see that cyber-operation does not classify as an attack.
- B. **FIS is not a Civilian Object**: Francisco Integrated Services (FIS) while responsible for the medical data of patients financial transactions, also hosts the Midona nuclear facility of Azania<sup>43</sup>. Objects which can be categorized as both civilian and military objects are referred to as dual objects<sup>44</sup>. The fact that a dual object is simultaneously a civilian one is immaterial for its qualification as a military objective<sup>45</sup>. It is not presumptuous to assume that a nuclear facility effectively contributes to Azania's military and therefore the cluster that hosts such facility by definition is a military objective. Therefore, FIS is not a civilian object but instead a dual object which qualifies to be classified as a military objective.

## **II. Data does not constitute as an object**

The various principles of IHL apply to those which qualify as Objects – something that is visible and tangible in the real world<sup>46</sup>. Since data is inherently intangible and invisible, it cannot be deemed an object within the context of International Humanitarian Law<sup>47</sup>. Furthermore, even if we were to consider data as object, damage and destruction are necessary in order to define the operation as an attack. However, the operation “did not cause a permanent loss of functionality to the computing systems or data storage.”<sup>48</sup> Therefore, there was no attack against the data.

## **Issue Three: Individual Responsibility**

**There are no substantial grounds to believe that General Rahama is individually criminally responsible under Article 46B of the Malabo Protocol with regards to the above offences.**

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<sup>42</sup> AP I, Art 49 (3)

<sup>43</sup> Statement of Fact, Para 23

<sup>44</sup> Melzer, N. (2016). International Humanitarian Law: A Comprehensive Introduction . Geneva: International Committee of the Red Cross. (Page 92 - 93)

<sup>45</sup> *Ibid*

<sup>46</sup> Geiß, R., & Lahmann, H. (2021). Protection of Data in Armed Conflict. International Law Studies, 557-572

<sup>47</sup> *Ibid*

<sup>48</sup> Statement of Fact, Para 24

## **I. Lack of Superior Subordinate relationship**

There is no superior- subordinate relationship between General Rahama and the Tahadhari Forces. There are many facts within the case that show us that it was General Vuta who had superior command over the Tahadhari forces not General Rahama. "Beyond establishing and leading the company as President, General Vuta maintains the supreme military command authority over all Tahadhari soldiers. He receives direct reports from the four regiment heads and personally directs operations on the field"<sup>49</sup>. In addition to this, their contract agreement shows that the Tahadhari soldiers would not serve under General Rahama's formal command within Bantu's military structure. Instead, General Vuta traveled to Bantu personally direct Tahadhari Group forces on the ground<sup>50</sup>. And finally, the fact that Bantu military officials avoided involvement in Tahadhari's day-to-day decisions<sup>51</sup> shows us that neither the Bantu military officials nor General Rahama had de jure or de facto power over these forces.

## **II. Lack of awareness the forces were committing or about to commit the crimes.**

The superior's actual knowledge can be inferred through direct or circumstantial evidence, including the number, type, and scope of illegal acts, the time, troop involvement, logistical means, and geographic location, and widespreadness, cadence of operations, similar acts' modus operandi, and commander's location.<sup>52</sup> The lack of direct involvement or oversight by General Rahama indicates that she did not have actual knowledge of the illegal acts.

To prove that the accused had reason to know of crimes committed, it is necessary to show that he had information available to him which would have put him on notice of unlawful acts committed or about to be committed by his subordinates. In this regard "it must be established whether, in the circumstances of the case, he possessed information sufficiently alarming to justify further inquiry".<sup>53</sup> In this particular case General Rahama did not possess information that would have put her on notice of unlawful acts committed by the Tahadhari group. The fact that the Tahadhari group retained responsibility for organizing and executing specific missions and regularly updated General Rahama<sup>54</sup> suggests that she relied on their reports and did not have reason to suspect any illegal activities.

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<sup>49</sup> Statement of Fact, Para 18

<sup>50</sup> Statement of Fact, Para 19

<sup>51</sup> *Ibid*

<sup>52</sup> *Prosecutor v Jadranko Prlić*, Case No. IT-04-74-T, Judgement (TC), 29 May 2013, Para. 247-248:

<sup>53</sup> ICTY, *Prosecutor v Radovan Karadžić*, "Public Redacted Version of Judgement Issued on 24 March 2016", IT-95-5/18-T, Para. 584-586.

<sup>54</sup> Statement of Fact, Para. 19

The clear division of responsibilities between General Rahama and the Tahadhari group indicates that she trusted them to carry out their missions lawfully. The Tahadhari group operated autonomously without direct oversight from General Rahama.

**III. The superior took the necessary and reasonable measures to prevent such acts or to punish the principal perpetrators.**

As per Article 86 (3) of AP I superiors are expected to take necessary and reasonable measures to prevent war crimes from happening<sup>55</sup>. General Rahama, in all her orders to the Bantu army acted in accordance with the principles of IHL. Furthermore, General Rahama also took steps to ensure that the Tahadhari Group acted in accordance with IHL despite the fact that they were not under her command. This can be seen from the fact that General Rahama issued a Standard Operating Procedure for the use of the cluster munitions<sup>56</sup>. This standard of procedure made sure that the weapon was targeted at military objectives only and gave civilians 48 hour notice to clear out of the targeted zones<sup>57</sup>. Because, General Rahama took all necessary and reasonable measures to prevent the war crimes, she cannot be liable for them.

**Prayer for Relief**

The Defense side asks the honorable court to consider the above stated laws, cases, and arguments and rule that:

1. The case is inadmissible before the ACJHPR and allow competent courts in the state of Mwari to regulate its internal matters.
2. The attack launched by the Bantu forces in December 23, 2020 was legal and followed by the principle of proportionality as well as the principle of precaution.
3. The cluster munitions used on October 3, 2021 were not indiscriminate and necessary precautions were taken.
4. The cyber-operation which took place on November 2, 2021 cannot constitute as an attack and that FIS is not a civilian object but a military one.
5. The case against General Rahama to be held individually liable for the war crimes lacks substantial ground and should therefore be declined.

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<sup>55</sup> CIHL, Rule 153

<sup>56</sup> Statement of Fact, Para 20

<sup>57</sup> *Ibid*