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**International
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Date: **27 October 2021**

PRE-TRIAL CHAMBER II

Before: **Judge Rosario Salvatore Aitala, Presiding Judge**
 Judge Antoine Kesia-Mbe Mindua
 Judge Tomoko Akane

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II
IN THE CASE OF *PROSECUTOR v. MAHAMAT SAID ABDEL KANI***

Public

with Public Annex A and Confidential Annex B

Corrected Version of “Public Redacted Version of ‘Document Containing the Charges, ICC-01/14-01/21-144-Conf’”, dated 16 August 2021”, ICC-01/14-01/21-144-Red, dated 17 October 2021

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I. THE ACCUSED

1. Mahamat Said Abdel Kani (“**SAID**”) was born on 25 February 1970 in Bria, Central African Republic (“CAR”). He is a CAR national. Between March 2013 and at least 10 January 2014, **SAID** was a senior member of the Seleka coalition.

II. THE CHARGES

A. Contextual Elements of War Crimes (Article 8)

2. At all times material to these charges, including from late 2012 until at least 10 January 2014, there was an armed conflict not of an international character on the territory of CAR. This conflict continued for a substantial period thereafter.

3. The parties to this non-international armed conflict were distinguished from one another by factors including their affiliation or opposition to Francois BOZIZE (President of CAR from 2003 until 24 March 2013)—even though their outward appearance, military organisation, and tactics significantly adapted as time passed and according to the vicissitudes of war.

4. Thus, forces loyal to BOZIZE initially included the CAR armed forces (the *Forces Armées Centrafricaines* or “FACA”), and later the coalition known as the Anti-Balaka, and forces opposed to BOZIZE formed a coalition known as the “Seleka,” led by Michel DJOTODIA.

5. Later, after the Seleka temporarily assumed control over the CAR, pro-BOZIZE forces—including FACA members and former Presidential Guards under BOZIZE—re-grouped, re-armed and re-organised themselves as a broader insurgency that became known as the “Anti-Balaka.” While the intensity of hostilities between the pro-BOZIZE forces and the Seleka varied, at no point in this period was the conflict resolved by a peaceful settlement, such as the complete obliteration of one of the parties or a lasting absence of armed confrontation between them.

6. The conduct that forms the basis of the charges in Counts 3-4, 6, 10-11, and 13 took place in the context of and was associated with this armed conflict. At all material times, the perpetrators of the charged acts, including **SAID**, were aware of the factual circumstances establishing the existence of the armed conflict.

Intensity of the armed conflict

7. The armed hostilities in the CAR between the pro-BOZIZE forces and the Seleka were protracted, exceeding the level of internal disturbances and tensions (such as riots, isolated and sporadic acts of violence or other acts of a similar nature), and sufficient to establish a non-international armed conflict.

8. Specifically, in late 2012, the Seleka launched a military offensive in northern CAR, occupying major towns and advancing southward towards Bangui, the capital of CAR. The FACA and other forces loyal to BOZIZE were unsuccessful in resisting their advance. By 24 March 2013, the Seleka were in a position to assault Bangui, and drove BOZIZE into exile. DJOTODIA proclaimed himself the new President of the CAR.

9. From 24 March 2013, BOZIZE and his allies rapidly re-grouped, re-armed, and re-organised to strike back against the Seleka. This led to the formation of the Anti-Balaka coalition, which combined elements of the FACA and the Presidential Guard with pre-existing and new self-defence groups in the CAR. By September 2013, within six months, these forces resumed significant combat operations against the Seleka. By 5 December 2013, they were in a position to launch a large-scale attack on Bangui in a coordinated attempt to oust the Seleka. While this was unsuccessful, further intense conflict followed. This led to the resignation of DJOTODIA on 10 January 2014, the retreat of the Seleka to the north and east of CAR, and the installation (under international pressure) of a non-aligned transitional government led by interim President Catherine Samba-Panza. Hostilities between the parties to the conflict continued thereafter.

Organisation of the parties to the armed conflict

10. At all material times, the parties to the conflict were sufficiently organised so as to establish the existence of a non-international armed conflict.

11. The Seleka were a coalition of several previously uncoordinated political factions and armed groups, including, but not limited to: (1) the *Union des Forces Démocratiques pour le Rassemblement* (“UFDR”), led by Michel DJOTODIA; (2) the *Convention des Patriotes pour la Justice et la Paix-Fondamentale* (“CPJP-F”), led by Nouradine ADAM; and (3) the *Convention Patriotique pour le Salut du Kodro* (“CPSK”), led by Mohamed Moussa DHAFFANE. The Seleka exhibited sufficient characteristics to establish that it was an organised armed group, including possessing an ability to carry out military operations, and to take and hold territory, and having significant logistical capacity.

12. Likewise, for as long as they constituted the State armed forces (while BOZIZE was President), the FACA comprised a key part of the pro-BOZIZE forces, and enjoyed a legal presumption of sufficient organisation. While BOZIZE’s ouster from Bangui was a significant setback, it did not interrupt the effective functioning of his inner circle, and persons loyal to them. Leaders of the pro-BOZIZE forces included BOZIZE, Levi YAKETE, Patrice-Edouard NGAÏSSONA, Bernard MOKOM, Maxime MOKOM, and Olivier KOUDEMON.

13. The pro-BOZIZE forces (including elements of the FACA who remained loyal to BOZIZE) were re-organised to include pre-existing or new self-defence groups, which came to be known as the Anti-Balaka. To any extent required, and at all times, they were sufficiently organised, as demonstrated by their maintenance of an effective command structure; their ability to carry out complex military operations; and their development of an effective logistical capacity, including to recruit new fighters.

B. Contextual Elements of Crimes against Humanity (Article 7)

14. From at least 23 March 2013 until at least 8 November 2013, the Seleka committed a widespread and systematic attack against the civilian population in Bangui perceived to be BOZIZE supporters.

15. The Seleka engaged in a course of conduct that involved the multiple commission of article 7(1) acts, namely multiple acts of murder, rape, torture, imprisonment, persecution, and other inhumane acts. This attack was committed pursuant to, and in furtherance of a State or organisational policy to commit such an attack against the civilian population in Bangui perceived to be BOZIZE supporters.

16. The Seleka perceived civilians with certain affiliations to be BOZIZE supporters, including (1) Christians; (2) people from the ethnic tribes of the Gbaya, Mandja or Banda; (3) people living in certain neighbourhoods of Bangui; (4) people who had certain professions perceived to be supportive of BOZIZE, such as members of the FACA, former Presidential Guards who had served under BOZIZE, and people who had been employed by the BOZIZE government; and (5) the family members or close associates of people who had certain professions perceived to be supportive of BOZIZE.

17. The attack included the multiple acts charged in this document, which took place at two detention facilities in Bangui, referred to as the *Office Central de Répression du Banditisme* (Central Office for the Repression of Banditry, “OCRB”) and the *Comité Extraordinaire pour la Défense des Acquis Démocratiques* (Extraordinary Committee for the Defence of Democratic Achievements, “CEDAD”).

18. The attack further involved non-charged article 7(1) acts that took place during other incidents in Bangui (the “Additional Incidents”), such as:

- a) an assault on 13 April 2013 on the 7th *arrondissement* of Bangui, during which the Seleka murdered (and attempted to murder), arbitrarily arrested people, and systematically looted the homes of perceived BOZIZE supporters;

- b) a 14-16 April 2013 operation in the Boy Rabe neighbourhood of Bangui, during which the Seleka murdered, raped, arbitrarily arrested people, beat people, and systematically looted the homes of perceived BOZIZE supporters;
- c) a 20-24 August 2013 operation in Boy Rabe, during which the Seleka murdered, raped, tortured, arbitrarily arrested people, beat people, and systematically looted the homes of perceived BOZIZE supporters; and
- d) the Seleka's arbitrary arrest, torture and murder of at least six passengers taken from a minibus at the PK9 checkpoint in Bangui, on or around 13 July 2013.

19. The unlawful acts committed during the Additional Incidents further constitute underlying acts of persecution of perceived BOZIZE supporters. The systematic and comprehensive looting of the homes of perceived BOZIZE supporters that occurred in the 7th *arrondissement* and Boy Rabe also constitutes the crime of other inhumane acts as the nature of the looting deprived the victims of objects essential for their survival, including all of their food, clothing, and means of maintaining themselves and their families. This caused suffering and devastation, had a long-lasting impact, and was similar to other acts under article 7(1).

20. The attack was systematic. The crimes comprising the attack were not committed at random. The crimes at the OCRB and the CEDAD compound were (1) planned, coordinated, and overseen by Seleka commanders; (2) committed by the Seleka on a regular basis over a substantial period of time, a period of more than eight months; and (3) executed by the Seleka according to a consistent pattern, involving similar victims and a similar *modus operandi*. The acts of violence that occurred during the Additional Incidents also demonstrated advance planning and/or coordination by Seleka leaders, targeted all those perceived as BOZIZE supporters, and occurred at various points throughout the charged period, further demonstrating the prolonged nature of the attack.

21. The attack was widespread. The attack was directed against a civilian population living in densely populated neighbourhoods in Bangui, the country's largest city. The attack lasted for over eight months and resulted in a large number of victims of murder, rape, imprisonment, torture, other inhumane acts, and persecution.

22. The article 7 acts in Counts 1-2, 5, 7-9, 12 and 14 of these Charges were committed as part of this widespread and systematic attack. As a senior leader of the Seleka, and an individual who was often present at the locations of the charged crimes, **SAID** knew and intended for his conduct to be part of the widespread and systematic attack against the civilian population in

Bangui perceived to be BOZIZE supporters, pursuant to, and in furtherance of, the State or organisational policy.

Common elements of modes of individual criminal responsibility

SAID's position of authority

23. At all material times relevant to the crimes charged in Counts 1–14 committed between 12 April and 8 November 2013, **SAID** was a senior Seleka colonel operating in Bangui. After the Seleka's military advance and takeover of Bangui, in which he participated, **SAID** was a direct subordinate of Nouradine ADAM, who was the Minister of Public Security until 22 August 2013 and then the Director of the CEDAD until 27 November 2013. ADAM appointed **SAID** as the *de facto* head of the OCRB on 12 April 2013 until 30 August 2013, effectively putting him in charge of this police unit, including all Seleka who were stationed there. In this position, **SAID** had full authority over at least 60 Seleka elements ("OCRB Seleka") as well as regular police officers stationed there. His deputy was Mahamat TAHIR Babikir. Leading Seleka elements and advisors to SAID were Hissene DAMBOUCHA and YAYA Soumayele. Fadoul AL-BACHAR, the deputy head of the CEDAD, Adoum RAKISS, the deputy head of the Police, and Mahamat SALLET Adoum Kette, a Seleka General tasked with security issues, were senior Seleka leaders coordinating regularly and closely with **SAID** in relation to detainees at the OCRB.

24. In this role, **SAID** oversaw the functioning and condition of the OCRB detention centre, where he created a coercive atmosphere conducive to the crimes. **SAID** exercised control over the OCRB-Seleka and police officers stationed at OCRB, who complied with his instructions. **SAID** provided them with supplies and ordered the arrest, detention and mistreatment of persons targeted on political, ethnic, religious, and/or gender grounds by OCRB-Seleka. He personally participated in arrests and interrogations, and decided on the fate of detainees at the OCRB.

25. When the Seleka were ousted from the OCRB on 30 August 2013, **SAID** was tasked by ADAM to act as "operations commander" at the CEDAD, recruiting, organising and commanding arrest patrols made up of Seleka elements until 8 November 2013. His deputies were again TAHIR and DAMBOUCHA, together with other Seleka colonels. **SAID** received and implemented orders from ADAM, who was the official head of the CEDAD. **SAID** arrested persons who were targeted on political, ethnic, religious, and/or gender grounds and participated in their mistreatment at the CEDAD compound.

26. From his position of authority, **SAID** also coordinated and cooperated with other high-ranking Seleka—including leaders of the Presidential Security of President DJOTODIA, such as Adam Babala ASSEID, and the Sudanese Seleka General Moussa ASSIMEH—regarding the detention of perceived BOZIZE supporters. **SAID** also cooperated with State officials appointed by President DJOTODIA, including the Chief of Police, Henri Wanzet LINGUISSARA.

Overview of SAID’s Individual Criminal Responsibility

27. **SAID** is individually criminally responsible for the crimes charged in Counts 1-7 committed at the OCRB between 12 April 2013 and 30 August 2013 for:

- Committing those crimes jointly with others (article 25(3)(a)); or
- Ordering or inducing those crimes (article 25(3)(b)); or
- Aiding, abetting, or otherwise assisting members of the OCRB-Seleka in the commission of the charged crimes (article 25(3)(c)); or
- Contributing, in any other way, to the commission of those crimes by the OCRB-Seleka and the Seleka leaders in Bangui who acted with a common purpose (article 25(3)(d)).

28. **SAID** is individually criminally responsible for the crimes at the CEDAD between mid-September 2013 and 8 November 2013 for:

- Aiding, abetting, or otherwise assisting the Seleka at the CEDAD compound in the commission of the crimes charged (article 25(3)(c)); or
- Contributing, in any other way, to the commission of those crimes at the CEDAD compound by the Seleka who acted with a common purpose (article 25(3)(d)).

The Charged Crimes

29. Between 12 April 2013 and 30 August 2013, **SAID** together with the OCRB-Seleka, targeted perceived BOZIZE supporters by arresting, detaining and mistreating them at the OCRB. The targeted victims were (1) predominantly Christian; (2) predominantly belonged to the Gbaya, Mandja or Banda ethnicity; (3) predominantly male, and (4) predominantly from certain neighbourhoods in Bangui, like Boy Rabe, perceived as supportive of BOZIZE. These victims were targeted for arrest on political, ethnic, religious, and/or gender grounds. **SAID** and the OCRB-Seleka severely deprived, contrary to international law, these persons of fundamental rights, including the rights to life, bodily integrity, private property, freedom of movement, and freedom from torture or cruel, inhumane or degrading treatment.

30. The OCRB-Seleka violently arrested these victims, often at night, and beat and hooded them. At the OCRB—which was an enclosed compound, not publicly accessible, surrounded by high walls, and guarded by armed OCRB-Seleka—the perceived BOZIZE supporters who were arrested were detained in one of three small cells. Overall, the detention conditions were dire as the detainees were held in dark, hot, cramped cells, and not provided with adequate food, water or regular independent medical attention.

31. During the charged period, the OCRB-Seleka arbitrarily detained persons, who were predominantly male, at the OCRB. They deprived them of fundamental rights contrary to international humanitarian and human rights law, including having access to prompt independent review of the basis of their detention and humane treatment. While some detainees learned during their interrogations that they may have been suspected of being a fighter or a spy for BOZIZE, others were merely accused of protesting the Seleka regime, supporting BOZIZE politically, or being from the Gbaya, Mandja, or Banda ethnic groups. During the relevant timeframe, at least 31 were detained in a small, hot, and over-crowded underground cell in SAID's office.

32. The OCRB-Seleka under SAID's control, and with his support, mistreated detainees on an almost daily basis. SAID oversaw the detention of men who were beaten with rifle butts, or slapped violently and threatened with death. Others were whipped with horsehide whips or sticks with metal wires; beaten with truncheons on their feet while kneeling, or with rifle butts; burnt; [REDACTED]. At least 16 men were inflicted with severe physical and psychological pain and suffering by having their hands, elbows and feet tied together tightly behind their backs, in a method called "*arbatachar*".

33. SAID was in charge of the OCRB detention centre, and the OCRB-Seleka operating there, at the times when the arrest, detention and/or mistreatment of the following persons occurred:

Sometime in April 2013, [REDACTED].

- a. [REDACTED].
- b. [REDACTED].
- c. [REDACTED].
- d. [REDACTED].
- e. [REDACTED].
- f. [REDACTED].

- g. [REDACTED].
- h. [REDACTED].
- i. In mid-July 2013, [REDACTED].
- j. [REDACTED].
- k. [REDACTED].
- l. [REDACTED].
- m. [REDACTED].
- n. [REDACTED].
- o. [REDACTED].
- p. [REDACTED].
- q. [REDACTED].
- r. Around mid-August 2013, [REDACTED].
- s. [REDACTED].

34. The facts above, constituting the factual basis for Counts 1 to 6, also form the underlying conduct of the crime of persecution (Count 7). This conduct was committed in connection with these crimes. At the material times, **SAID** and the other perpetrators targeted the victims, who they perceived as BOZIZE supporters as described in paragraph 29, on political, ethnic, religious, and/or gender grounds.

35. **SAID** was aware of the factual circumstances that established the gravity of the conduct, such that it violated fundamental rules of international law, as charged in Count 1. **SAID** knew that detainees were arrested on an arbitrary basis, deprived of their right to prompt independent review of the basis of their detention, held in dire conditions, and subjected to severe physical and/or mental treatment.

36. **SAID** knew that the perpetrators inflicted the pain or suffering on detainees at the OCRB for such purposes as obtaining information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind (Count 3). **SAID** was also aware that the persons detained at the OCRB were civilians or persons *hors de combat* (Counts 4 and 6). **SAID** was further aware of the factual circumstances that established the character of the acts as charged in Count 5 as acts similar to other acts referred to in article 7(1) of the Statute.

SAID's Individual Criminal Responsibility

Under art. 25(3)(a) for directly co-perpetrating crimes at the OCRB

37. **SAID** and Nouradine ADAM, TAHIR Babikir, Hissene DAMBOUCHA, YAYA Soumayele, Mahamat SALLET Adoum Kette, Adoum RAKISS, Fadoul AL-BACHAR, and other members of the OCRB-Seleka shared a common plan or agreement to target perceived BOZIZE supporters in Bangui by committing the crimes charged in Counts 1–7 at the OCRB (the “OCRB Common Plan”). The crimes charged in Counts 1–7 were committed by the co-perpetrators, including **SAID**, and occurred within the framework, and resulted from the implementation of the OCRB Common Plan. The OCRB Common Plan came into existence, as soon as 12 April 2013.

38. **SAID** made an essential contribution to the OCRB Common Plan until 30 August 2013 by:

- a. Ordering the arrests of, and arresting and detaining, perceived BOZIZE supporters at the OCRB—including the detention of victims in an underground cell situated under his office in the OCRB;
- b. Instructing OCRB-Seleka to mistreat detainees who allegedly supported BOZIZE, including by tying them up using the painful *arbatachar* method;
- c. Supplying the OCRB-Seleka with weapons, food, vehicles and uniforms, and ID cards;
- d. Interrogating detainees violently and supporting such interrogation methods by OCRB-Seleka;
- e. Overseeing the overall functioning of the OCRB detention centre, including the detention conditions, by giving instructions and orders to the police officers and OCRB-Seleka, deciding who would get access to the judiciary and by reporting to ADAM; and
- f. Creating an atmosphere conducive to the crimes charged.

39. **SAID** meant to engage in the conduct described above and intended to bring about the objective elements of crimes charged in Counts 1–7. He was also aware that the implementation of the OCRB Common Plan would, in the ordinary course of events, result in the commission of the type of crimes charged in Counts 1–7.

40. **SAID** was aware that the OCRB Common Plan involved an element of criminality. He was also aware of his essential role in the OCRB Common Plan, the essential nature of his contributions, as set out above, and of his ability, jointly with other co-perpetrators, to control the commission of the crimes.

Under article 25(3)(b) for ordering crimes at the OCRB

41. In the alternative, **SAID** ordered members of the OCRB-Seleka, over whom he had a position of authority, to commit the crimes charged in Counts 1–7. **SAID** gave instructions to his subordinates to use the *arbatachar* method, praising this method as the best way to extract confessions. He supported other forms of severe mistreatment. **SAID** gave instructions to his subordinates to detain men in the small, dark and overcrowded underground cell under his office, where they were provided little food and water and no access to independent review of their detention.

42. **SAID** meant to engage in this conduct and was aware of his position of authority over the physical perpetrators of the crimes. **SAID** meant for the OCRB-Seleka, including TAHIR, DAMBOUCHA and YAYA, to commit these crimes and/or was aware that, in the ordinary course of events, they would commit the crimes, and was aware that his conduct would contribute to their commission.

Under article 25(3)(b) for inducing crimes at the OCRB

43. In the alternative, through the conduct described above at paragraph 38, **SAID** induced the OCRB-Seleka to commit the charged crimes. **SAID** exerted influence over the OCRB-Seleka, prompting them to commit the charged crimes.

44. **SAID** meant to engage in the conduct described above. **SAID** meant for the OCRB-Seleka, including his deputies TAHIR, DAMBOUCHA and YAYA, to commit these crimes and/or was aware that, in the ordinary course of events, they would commit the crimes, and was aware that his conduct would contribute to their commission.

Under article 25(3)(c) for aiding, abetting, or otherwise assisting in the commission of the crimes at the OCRB

45. In the alternative, through the conduct described above at paragraph 38, **SAID** aided, abetted or otherwise assisted the OCRB-Seleka in the commission of the crimes charged in Counts 1-7.

46. **SAID** meant to engage in the conduct described and provided this assistance for the purpose of facilitating the commission of the charged crimes. **SAID** was aware that members of the OCRB-Seleka would, in the ordinary course of events, commit the crimes charged in Counts 1-7 in the OCRB between 12 April 2013 and 30 August 2013, and was aware that his conduct would contribute to their commission.

Under article 25(3)(d) for contributing, in any other way, to the commission of the crimes at the OCRB

47. In the alternative, **SAID** intentionally contributed to the commission of the crimes charged in Counts 1–7 by members of the OCRB-Seleka who acted pursuant to a common

purpose to target perceived BOZIZE supporters in Bangui, by committing the crimes charged in Counts 1-7 at the OCRB (the “OCRB Common Purpose”). The OCRB Common Purpose materialised as soon as 12 April 2013.

48. **SAID** contributed to the commission of the crimes in the ways set out in paragraph 38.

49. **SAID** intentionally contributed to the commission of the crimes charged in Counts 1-7 by members of the OCRB-Seleka acting pursuant to the OCRB Common Purpose, with the aim of furthering their criminal activity or the criminal purpose, or in the knowledge of their intention to commit those crimes.

Legal characterisation of facts for the crimes at the OCRB (Counts 1-7)

SAID is criminally responsible for:

COUNT 1: Imprisonment or other severe deprivation of physical liberty as a crime against humanity at the OCRB of persons perceived to be BOZIZE supporters between 12 April 2013 and 30 August 2013 as summarised in paragraphs 33.a-t, punishable under article 7(1)(e) and pursuant to articles 25(3)(a) (direct co-perpetration), 25(3)(b) (ordering or inducing), 25(3)(c) (aiding, abetting or otherwise assisting in the commission of the crime), or 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 2: torture as a crime against humanity of at least 16 people perceived to be BOZIZE supporters, who were tied using the *arbatachar* method, between 12 April 2013 and 30 August 2013, as well as other detainees who were severely mistreated as summarised in paragraphs 33.c, 33.f, 33.i, 33.n, and 33.s, punishable under article 7(1)(f) and articles 25(3)(a) (direct co-perpetration), 25(3)(b) (ordering or inducing), 25(3)(c) (aiding, abetting, or otherwise assisting in the commission of the crime), or 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 3: torture as a war crime of at least 16 people perceived to be BOZIZE supporters, who were tied using the *arbatachar* method, between 12 April 2013 and 30 August 2013, as well as other detainees who were severely mistreated as summarised in paragraphs 33.c, 33.f, 33.i, 33.n, and 33.s, punishable under article 8(2)(c)(i)-4 and pursuant to articles 25(3)(a) (direct co-perpetration), 25(3)(b) (ordering or inducing), 25(3)(c) (aiding, abetting or otherwise assisting in the commission of the crime), or 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 4: cruel treatment as a war crime, of at least 16 people perceived to be BOZIZE supporters, who were tied using the *arbatachar* method, between 12 April 2013 and 30 August 2013, as well as other detainees who were severely mistreated as summarised in paragraphs

33.c, 33.f, 33.i, 33.n, and 33.s and detained under dire conditions at the OCRB, punishable pursuant to article 8(2)(c)(i)-3 and articles 25(3)(a) (direct co-perpetration), 25(3)(b) (ordering or inducing), 25(3)(c) (aiding, abetting or otherwise assisting in the commission of the crime), or 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 5: other inhumane acts as a crime against humanity of people perceived to be BOZIZE supporters, who were detained in deplorable conditions at the OCRB, and who were verbally and physically abused, including during interrogations, between 12 April 2013 and 30 August 2013 as summarised in paragraphs 33.a-t, punishable under article 7(1)(k) and articles 25(3)(a) (direct co-perpetration), 25(3)(b) (ordering or inducing), or 25(3)(c) (aiding, abetting or otherwise assisting in the commission of the crime), or 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 6: outrages upon personal dignity as a war crime of people perceived to be BOZIZE supporters, who were detained in deplorable conditions at the OCRB and/or were tied using the *arbatachar* method, and/or were verbally and physically abused, as summarised in paragraphs 33.a-t., between 12 April 2013 and 30 August 2013, punishable under article 8(2)(c)(ii) and articles 25(3)(a) (direct co-perpetration), 25(3)(b) (ordering or inducing), or 25(3)(c) (aiding, abetting or otherwise assisting in the commission of the crime), or 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 7: persecution as a crime against humanity on political, ethnic, religious, and/or gender grounds, concerning the people detained at OCRB, based on the facts underlying Counts 1-6, as summarised in paragraphs 33.a-t, and punishable under article 7(1)(h), and articles 25(3)(a) (direct co-perpetration), 25(3)(b) (ordering or inducing), 25(3)(c) (aiding, abetting or otherwise assisting in the commission of the crime), or 25(3)(d) (common purpose liability) of the Rome Statute.

Crimes at the CEDAD compound

50. On 25 May 2013, by decree, President DJOTODIA created an intelligence service by the name of CEDAD. This institution came under the auspices of the Presidency and was meant to deal with national security threats. After the Seleka were ousted from the OCRB on 30 August 2013, ADAM took charge of CEDAD as its Director General, a status equivalent to Minister of State.

51. ADAM established the CEDAD headquarters in a compound of a residential area in central Bangui, which was enclosed with high walls. His *de jure* deputy was AL-BACHAR, who had been appointed to CEDAD by DJOTODIA already in May 2013, together with a number of career intelligence officers (“civil servants”) who were in charge of different

sections of the administration. They all transferred to this compound when ADAM took over. As of September 2013, the CEDAD was used as a means of gathering intelligence for national security purposes, and its compound was used as a Seleka base and secret detention centre. The civil servants and all operations of CEDAD were under the immediate control of ADAM, SAID's direct superior, and AL-BACHAR. The judicial police and public prosecutors had no access to the CEDAD compound.

52. SAID recruited Seleka elements who had formerly been associated with the OCB, including TAHIR, DAMBOUCHA and SALLET, to work as part of arrest patrols at the CEDAD compound (the "CEDAD-Seleka"). SAID organised them in shifts, which he oversaw. SAID also gave them their arrest orders from a list provided to him by ADAM. SAID would participate in violent arrests of detainees, including having some tied using the *arbatachar* method on at least one occasion.

53. SAID also controlled the Seleka who constituted the security at the CEDAD compound. ADAM and SAID organised the Seleka at the CEDAD compound into two groups, which rotated in 48-hour-shifts. The group on duty guarded the CEDAD compound and ADAM's residence at 14 Villas.

54. ADAM, AL-BACHAR, SAID and several leading civil servants as well as Seleka elements stationed at the CEDAD compound organised and participated in the interrogations of the detainees there. Further, ADAM and AL-BACHAR reported regularly on information they received from detainees to the National Security Council of the Seleka government. ADAM requested the budget and managed the bank account of CEDAD, which was financed by the presidency.

55. Between mid-September 2013 and 8 November 2013, CEDAD-Seleka arrested and detained at least 33 perceived BOZIZE supporters, including one woman, at the CEDAD compound, where they were interrogated and mistreated, often severely. The people detained were predominantly male, Central African Christians, living in Bangui, with either Gbaya or Mandja ethnicity, and this was known to the Seleka elements who arrested them.

56. The detainees were initially arrested by armed Seleka elements who had no authority to arrest, and used vehicles with tinted windows and no licence plates. The CEDAD-Seleka elements did not inform the detainees' family members of the whereabouts/location of their relatives, such that the latter were forced to go looking for their relatives at known detention sites, hospitals, and morgues, or to make appeals on Radio Ndeke Luka. They often believed their relatives had been killed. This created severe anguish and mental suffering and injury to

the family members of the CEDAD detainees. ADAM threatened harm and even death to any journalist who reported about CEDAD or enquired about its location.

57. The abductions were violent in nature, including death threats and beatings with weapons and other items. Personal items such as mobile phones and money were stolen from the detainees by the Seleka elements. Arrested persons were hooded and in some hoods, Seleka elements had added pepper powder, which burned the detainees' eyes. The detainees were then driven in circles around Bangui so that by the time they arrived at the CEDAD compound, they did not know where they were.

58. Care was taken to attract as little public attention as possible to the CEDAD compound and its detainees. Its location was not mentioned publicly, and the CEDAD-Seleka elements were not allowed to wear their military uniforms when coming and going so as not to give away its location. The same procedure of hooding and driving around was adopted when detainees were released.

59. At least eighteen of the CEDAD compound detainees were held for seven days or longer. In most cases, they were held for several weeks, until 8 November 2013. While in detention, the detainees were deprived of fundamental rights contrary to international humanitarian and human rights law, including having access to prompt review of the basis of their detention and humane treatment. They were held incommunicado, and could not contact or receive visits from family members. When family members would come looking for a detainee, the guards would show them a false register.

60. The Seleka at the CEDAD compound interrogated the detainees. They accused some of the detainees of planning a coup and asked them to give up names of alleged co-conspirators. Other detainees were asked about BOZIZE's activities or his supporters, accused of supporting BOZIZE himself financially or with weapons, or accused of supporting the Anti-Balaka.

61. In the course of their detention and/or interrogation, detainees were threatened with death, and subjected to conditions causing fear for their safety such as hooding and prolonged exposure to the sun. One detainee was left standing hooded in the sun for seven hours after the CEDAD-Seleka poked him with rifles and asked if he had prayed. Detainees were beaten, including with whips and planks, and kicked, including while physically restrained or hooded. The abuse was so severe that some detainees lost consciousness or asked to be killed. Detainees were also beaten at night, creating additional fear and disturbing their sleep.

62. The detention conditions were inhumane. Detainees were held in dark, unventilated cells of approximately 4x4 meters in size, which were overcrowded with up to 40 prisoners in one

cell. The cells were unbearably hot, and there was no room for detainees to lie down. There were no toilet facilities so the prisoners had to relieve themselves in the cells. Some detainees were handcuffed for days, including to each other. No medical attention was provided, even for detainees with medical conditions. The detainees were not provided sufficient food and water, resulting in severe malnourishment and suffering.

63. The media increasingly reported on the existence of the location of the CEDAD compound, and secret detentions that were occurring there, prompting pressure from the international community. In response, in November 2013, DJOTODIA forced ADAM and AL-BACHAR to either release or transfer the detainees to the prison of the *Section de Recherche et d'Investigations* (“SRI”) in Bangui. By 8 November 2013, the detainees were either released or transferred to the SRI prison by AL-BACHAR, and processed through the judicial system. However, before being formally released, the CEDAD authorities warned the detainees not to speak about their detention and to be careful, since Seleka elements might pick them up again.

64. During the relevant time period at least 32 males and one woman were brought to the CEDAD compound:

- a. [REDACTED].
- b. [REDACTED].
- c. [REDACTED].
- d. [REDACTED].
- e. [REDACTED].
- f. [REDACTED].
- g. [REDACTED].
- h. [REDACTED].
- i. [REDACTED].
- j. [REDACTED].
- k. [REDACTED].
- l. [REDACTED].
- m. [REDACTED].
- n. [REDACTED].
- o. During the period relevant to the charges, [REDACTED].

65. The facts above that constitute Counts 8 to 13 also form the underlying conduct of the crime of persecution (Count 14). The targeted victims were (1) predominantly Christian; (2) predominantly belonged to the Gbaya, Mandja or Banda ethnicity; (3) predominantly male and

(4) predominantly from certain neighbourhoods in Bangui, like Boy Rabe, perceived as supportive of BOZIZE. This conduct was committed in connection with these crimes. At the material times, **SAID** and the other perpetrators targeted the victims, who they perceived as BOZIZE supporters, on political, ethnic, religious, and/or gender grounds.

66. As one of the highest-ranking Seleka elements from the police sector and a close associate of ADAM, **SAID** was aware of the mandate of CEDAD as well as the arbitrary arrests and prolonged detentions of perceived BOZIZE supporters without access to legal safeguards. **SAID** was aware of the factual circumstances that established the gravity of the conduct at the CEDAD compound, such that it violated fundamental rules of international law, as charged in Count 8. **SAID** knew that the detainees were arrested on an arbitrary basis, deprived of their right to prompt independent review of the basis of their detention and other fundamental due process rights, held in dire detention conditions, and subject to severe physical and mental mistreatment.

67. **SAID** knew that the perpetrators inflicted pain or suffering on the detainees at the CEDAD compound for such purposes as obtaining information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind (Count 10). **SAID** was also aware that the persons detained at the CEDAD compound were civilians or persons *hors de combat* (Counts 11 and 13). **SAID** was further aware of the factual circumstances that established the character of the acts as charged in Count 12 as acts similar to any other act referred to in article 7(1) of the Statute.

SAID's Individual Criminal Responsibility

Under article 25(3)(c) for aiding, abetting, or otherwise assisting in the commission of the crimes at the CEDAD compound

68. **SAID** aided, abetted or otherwise assisted members of the Seleka stationed at the detention site known as the CEDAD compound, who targeted perceived BOZIZE supporters in Bangui, by committing the crimes charged in Counts 8-14.

69. **SAID** aided, abetted or otherwise assisted by way of the following acts:

- a. Recruiting Seleka elements for the arrest patrols of the CEDAD-Seleka, including many who were already familiar with and had engaged in the criminal practices employed already at the OCRB;

- b. Acting as the “operations commander”, overseeing the Seleka colonels at CEDAD with approximately 20 Seleka elements in each arrest patrol which brought the prisoners to the CEDAD compound;
- c. Organising the security of the CEDAD compound with Seleka;
- d. Jointly, with ADAM, instructing the beatings of detainees on the pretext that they were perceived BOZIZE supporters;
- e. Personally going on operations to detain and harm people and assisting in interrogations of the CEDAD compound detainees on at least two occasions;
- f. Being present at the CEDAD compound regularly and influencing CEDAD-Seleka by way of his authority.

70. **SAID** meant to engage in the conduct described above and provided this assistance for the purpose of facilitating the commission of the crimes charged in Counts 8-14. **SAID** was aware that members of the CEDAD-Seleka would, in the ordinary course of events, commit the crimes charged in Counts 8-14, and was aware that his conduct would contribute to their commission.

Under article 25(3)(d), for contributing, in any other way, to the commission of the crimes at the CEDAD compound

71. In the alternative, **SAID** intentionally contributed to the commission of the crimes charged in Counts 8–14 by members of the CEDAD-Seleka, who acted pursuant to a common purpose to target perceived BOZIZE supporters in Bangui, by committing the types of crimes charged in Counts 8–14 at the CEDAD (the “CEDAD Common Purpose”). The CEDAD Common Purpose materialised at the latest after the Seleka were ousted from the OCRB, between ADAM, AL-BACHAR, **SAID** and former OCRB-Seleka, resulting in the crimes charged in Counts 8-14.

72. **SAID**’s contributions in furtherance of the CEDAD Common Purpose are those described above at paragraph 69.

73. **SAID** intentionally contributed to the commission of the crimes charged in Counts 8-14 by members of the CEDAD-Seleka acting pursuant to the CEDAD Common Purpose, with the aim of furthering their criminal activity or the common purpose, and/or in the knowledge of their intention to commit those crimes.

74. When engaging in the above conduct, **SAID** had the requisite intent and knowledge under articles 25 and 30 and for the elements of the respective crimes charged in Counts 8-14.

Legal characterisation of facts for the crimes at the CEDAD compound (Counts 8-14)

SAID is criminally responsible for:

COUNT 8: Imprisonment or other severe deprivation of physical liberty as a crime against humanity of at least 33 people between mid-September and 8 November 2013 at the CEDAD compound, as summarised in paragraph 64.a-o punishable under article 7(1)(e) and articles 25(3)(c) (aiding, abetting or otherwise assisting in the commission of the crime), or 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 9: Torture as a crime against humanity at the CEDAD compound, insofar as several men were handcuffed to each other for several weeks, were hooded for prolonged periods including by adding pepper powder into their hoods, were beaten until they passed out or submerged under water to simulate drowning, or tied using the *arbatachar* method, as well as other acts of comparable severity, between mid-September and 8 November 2013, punishable under article 7(1)(f) and articles 25(3)(c) (aiding, abetting or otherwise assisting in the commission of the crime), or 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 10: Torture as a war crime at the CEDAD compound, insofar as several detainees were handcuffed to each other for several weeks, were hooded for prolonged periods including by putting pepper powder into their hoods, were beaten until they passed out or submerged under water to simulate drowning, as well as other acts of comparable severity, between mid-September and 8 November 2013, punishable under article 8(2)(c)(i)-4 and articles 25(3)(c) (aiding, abetting or otherwise assisting in the commission of the crime), or 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 11: Cruel treatment as a war crime, insofar as several detainees were handcuffed to each other for several weeks, were hooded for prolonged periods including by putting pepper powder into their hoods, were beaten until they passed out or submerged under water to simulate drowning, as well as other acts of comparable severity, at the CEDAD between mid-September and 8 November 2013, punishable pursuant to article 8(2)(c)(i)-3 and articles 25(3)(c) (aiding, abetting or otherwise assisting in the commission of the crime), or 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 12: Other inhumane acts as a crime against humanity, insofar as at least 33 people were detained in deplorable conditions between mid-September and 8 November 2013 at the CEDAD compound, and the Seleka at the CEDAD compound refused to acknowledge their arrest, detention and abduction, or to give information on their fate or whereabouts to their

family members, as summarised in paragraph 64.a-o punishable under article 7(1)(k) and articles 25(3)(c) (aiding, abetting or otherwise assisting in the commission of the crime), or 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 13: Outrages upon personal dignity as a war crime of at least 33 people who were detained in deplorable conditions at the CEDAD compound, and/or were tied using the *arbatachar* method, and/or were beaten or verbally and physically abused, between mid-September and 8 November 2013, as summarised in paragraph 64.a-o, punishable under article 8(2)(c)(ii) and articles 25(3)(c) (aiding, abetting, or otherwise assisting in the commission of the crime), or 25(3)(d) (common purpose liability) of the Rome Statute.

COUNT 14: Persecution as a crime against humanity, on political, ethnic, religious, and/or gender grounds, carried out against at least 33 people detained at CEDAD, based on the facts underlying Counts 8 to 13, as summarised in paragraph 64.a-o, punishable under article 7(1)(h), and 25(3)(c) (aiding, abetting or otherwise assisting in the commission of the crime), or 25(3)(d) (common purpose liability) of the Rome Statute.

A handwritten signature in blue ink, consisting of a stylized initial 'K' followed by a long horizontal line, with a small dot at the end.

Karim A. A. Khan QC, Prosecutor

Dated this 27th day of October 2021
At The Hague, The Netherlands