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PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Single Judge

SITUATION IN THE CENTRAL AFRICAN REPUBLIC II

Public

Public Redacted Version of 'Warrant of Arrest for Mahamat Said Abdel Kani',
7 January 2019, ICC-01/14-01/21-2-US-Exp

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

The Office of the Prosecutor
 Fatou Bensouda, Prosecutor
 James Stewart, Deputy Prosecutor

Counsel for the Defence

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
 Participation/Reparations**

**The Office of Public Counsel for
 Victims**

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

States Representatives

Amicus Curiae

REGISTRY

Registrar
 Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
 Section**

Other

JUDGE ROSARIO SALVATORE AITALA, acting as Single Judge on behalf of Pre-Trial Chamber II (the “Chamber”) of the International Criminal Court (the “Court” or “ICC”),¹ issues this warrant of arrest pursuant to article 58(1) of the Rome Statute (the “Statute”) for

Mahamat Saïd Abdel Kani

also known as “Mahamat Saïd Abdel Kain” and “Mahamat Saïd Abdelkani”, a national of the Central African Republic (“CAR”), born on 25 February 1970 in Bria, Ndele Province, the CAR.²

I. Procedural History

1. On 30 May 2014, the Government of the CAR referred the situation in the CAR since 1 August 2012 to the Court.³

2. On 30 October 2018, the Prosecutor submitted under seal, *ex parte*, the application for the issuance of a warrant of arrest (the “Application”) for Mahamat Saïd Abdel Kani (“Saïd”) for the following crimes within the Court’s jurisdiction committed in Bangui, at 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”), between at least 12 April 2013 and at least 27 November 2013 (the “Relevant Period”) by persons belonging to the militia group known as the “Seleka”:⁴

- (i) imprisonment or other severe deprivation of physical liberty (article 7(1)(e) of the Statute);
- (ii) torture (articles 7(1)(f) and 8(2)(c)(i) of the Statute);
- (iii) persecution (article 7(1)(h) of the Statute);
- (iv) other inhumane acts (article 7(1)(k) of the Statute); and
- (v) cruel treatment (article 8(2)(c)(i) of the Statute).⁵

¹ Pre-Trial Chamber II, Decision designating a Single Judge, 6 December 2018, ICC-01/14-30-US-Exp.

² CAR-OTP-2001-2890 at 2933; CAR-OTP-2023-0646 at 0647; CAR-OTP-2082-0458 at 0458.

³ The letter is annexed to the decision assigning the situation to the Chamber; *see* Presidency, Decision Assigning the Situation in the Central African Republic II to Pre-Trial Chamber II, 18 June 2014, ICC-01/14-1-Anx1.

⁴ ICC-01/14-19-US-Exp, together with 7 under seal, *ex parte* annexes.

⁵ ICC-01/14-19-US-Exp, paras 2(a), 171.

3. On 23 November 2018, upon request by the Chamber,⁶ the Prosecutor submitted additional information regarding the Application.⁷

II. Jurisdiction and Admissibility

4. The Single Judge finds that, pursuant to article 19(1), first sentence, of the Statute, on the basis of the materials submitted and without prejudice to future determinations on the matter, the case against Said falls within the jurisdiction of the Court.⁸ The Single Judge is satisfied that the incidents described in the Application amount to crimes against humanity and war crimes that have taken place after 1 August 2012 on the territory of the CAR (article 12(2)(a) of the Statute) and were associated with the conflict underlying the referral of the CAR Government.

5. The Single Judge declines, at this stage, to use his discretionary *proprio motu* power pursuant to article 19(1), second sentence, of the Statute⁹ to determine the admissibility of the case against Said as there is no ostensible cause or self-evident factor which impels him to do so.

III. Requirements of Article 58(1) of the Statute

1. *Whether Said has committed a crime under the jurisdiction of the Court (Article 58(1)(a) of the Statute)*

6. **The Conflict and Armed Groups Involved.** Dissatisfied with the government of the then President François Bozizé, an armed movement by the name of “Seleka”,¹⁰ emerged around August 2012 in north-eastern CAR.¹¹ Led by Michel Djotodia, the Seleka consisted of a coalition of several previously uncoordinated political factions and armed groups, including the *Convention des Patriotes pour la Justice et la Paix – Fondamentale* (“CPJP-F”), predominantly composed of Muslims,

⁶ Pre-Trial Chamber II, Order for Additional Information, 14 November 2018, ICC-01/14-25-US-Exp.

⁷ ICC-01/14-29-US-Exp, with 7 under seal, *ex parte* annexes.

⁸ See Appeals Chamber, *Prosecutor v Thomas Lubanga Dyilo*, Judgment on the Appeal of Mr. Thomas Lubanga Dyilo against the Decision on the Defence Challenge to the Jurisdiction of the Court pursuant to article 19(2)(a) of the Statute of 3 October 2006, 14 December 2006, ICC-01/04-01/06-772, paras 21-22.

⁹ See Appeals Chamber, *Situation in the Democratic Republic of the Congo*, Judgment on the Prosecutor’s appeal against the decision of Pre-Trial Chamber I entitled “Decision on the Prosecutor’s Application for Warrants of Arrest, Article 58”, ICC-01/04-169, 13 July 2006, paras 1-2, 52.

¹⁰ “Seleka” means “coalition” or “alliance” in the Sango language; see CAR-OTP-2001-2890 at 2897.

¹¹ CAR-OTP-2001-2769 at 2831; CAR-OTP-2001-1976 at 1989; CAR-OTP-2001-7017 at 7067, paras 167-168; CAR-OTP-2034-0104 at 0110, para. 26.

which were formed years before to resist the government forces when François Bozizé seized power in 2003.¹² In the course of time Sudanese and Chadian nationals also joined the fighters.¹³ From late 2012 to early 2013, the Seleka advanced southwards towards the capital, Bangui, attacking police stations, occupying military bases, capturing various towns and regional capitals, and targeting those suspected to support François Bozizé.¹⁴ Notwithstanding a cease-fire agreement signed on 11 January 2013 in Libreville, Gabonese Republic,¹⁵ senior Seleka commanders planned to attack Bangui and made a coordinated military advance down two axes: Sibut-Damara and Bossangoa-Bossembélé-Boali.¹⁶ The Seleka captured Bangui on 24 March 2013 with the use of heavy weaponry, including mounted machine guns, mortars and rocket-propelled grenades.¹⁷ François Bozizé was forced into exile in the Republic of Cameroon and Michel Djotodia proclaimed himself President of the CAR.¹⁸

7. After the taking of Bangui in March 2013, forces loyal to the former government, including members of the *Forces Armées Centrafricaines* (“FACA”), continued to display some resistance. Fire exchanges took place between the pro-Bozizé forces and the Seleka¹⁹ over the ensuing months, with both sides employing heavy weapons.²⁰ The Seleka expected counter-attacks and strengthened their security efforts.²¹ The number of Seleka members increased from approximately 5,000 to 15,000-20,000.²² The number of international troops of the *Force*

¹² CAR-OTP-2001-5739 at 5751-5753; CAR-OTP-2075-0812 at 0816-0817.

¹³ CAR-OTP-2001-2769 at 2777, 2832-2835; CAR-OTP-2001-1976 at 1989-1990; CAR-OTP-2001-5739 at 5751-5753; CAR-OTP-2001-7017 at 7034, para. 44, at 7067, paras 167-168; CAR-OTP-2034-0104 at 0113, para. 51.

¹⁴ CAR-OTP-2001-5739 at 5759; CAR-OTP-2034-0104 at 0113, paras 51-52; CAR-OTP-2084-0191 at 0196, para. 22; CAR-OTP-2017-0036 at 0042-0043, paras 33-35; CAR-OTP-2017-0835 at 0837-0838, para. 13; CAR-OTP-2001-0172 at 0180-0182.

¹⁵ CAR-OTP-2001-0742; CAR-OTP-2001-7017 at 7067.

¹⁶ CAR-OTP-2094-0002 at 0006-0007; *see also* ICC-01/14-29-US-Exp, Annex 7.

¹⁷ CAR-OTP-2001-5739 at 5759; CAR-OTP-2034-0270 at 0271-0272, paras 8-12; CAR-OTP-2017-0835 at 0838, paras 14-15; CAR-OTP-2018-0530 at 0534-0535, paras 26-29; CAR-OTP-2001-2890 at 2898-2899; CAR-OTP-2001-0172 at 0176, para. 9.

¹⁸ CAR-OTP-2017-0835 at 0838, para. 14; CAR-OTP-2069-0398 at 0402, para. 24; CAR-OTP-2034-0270 at 0271-0272, paras 12-13; CAR-OTP-2001-2890 at 2899.

¹⁹ By 10 July 2014, the Seleka split in various ex-Seleka groups; CAR-OTP-2027-1631 at 1645; CAR-OTP-2091-0480; CAR-OTP-2001-5055.

²⁰ CAR-OTP-2032-0753 at 0762-0763, 0775; CAR-OTP-2074-2965, 2971; CAR-OTP-2034-3627 at 3633; CAR-OTP-2027-2535 at 2541.

²¹ CAR-OTP-2019-3348 at 3388.

²² CAR-OTP-2019-3348 at 3380, para. 251, at 3405, para. 482; CAR-OTP-2001-1102 at 1103, para. 5.

Multinationale des États d'Afrique Centrale, which had been deployed under the *Mission de consolidation de la paix en Centrafrique*, also increased from 600 to 2000.²³

8. The Seleka began to conduct search operations, looking for weapons and FACA members, in areas of Bangui considered to be supportive of François Bozizé, such as the 4th *arrondissement* – in particular the Boy Rabe neighbourhood – and the 7th *arrondissement*.²⁴ In the course of these operations, Seleka members killed an unknown number of residents.²⁵ Some – mostly men – were shot in the back as they were running away.²⁶ Others were killed in their homes, including a pregnant woman²⁷ and family members of FACA soldiers (as a form of punishment).²⁸ Women and girls were raped and gang raped in front of their children or parents; some died as a result of their injuries.²⁹ Houses were systematically looted.³⁰ The Seleka used members of the local population, known as *indicateurs*, to identify the houses of perceived supporters of François Bozizé (such as (retired) military men, gendarmes, policemen, civil servants or relatives of François Bozizé).³¹ Notably, Muslims and Muslim houses were spared.³²

9. Suspected supporters of François Bozizé were also arrested or kidnapped, some of whom were later either killed, or imprisoned and tortured at Seleka bases or detention sites such as the OCRB and the CEDAD.³³ The OCRB was a pre-existing unit of the CAR national police.³⁴ While career police officers were stationed there,³⁵

²³ CAR-OTP-2001-2890 at 2899.

²⁴ CAR-OTP-2032-0753 at 0758-0762, 0766-0772, 0780; CAR-OTP-2027-2535 at 2540; CAR-OTP-2039-0133 at 0137, 0139; CAR-OTP-2053-0359 at 0363.

²⁵ CAR-OTP-2027-2535 at 2541, 2552; CAR-OTP-2032-0753 at 0762-0763, 0769-0771; CAR-OTP-2039-0133 at 0139.

²⁶ CAR-OTP-2027-2535 at 2545; CAR-OTP-2032-0753 at 0767.

²⁷ CAR-OTP-2027-2535 at 2561; CAR-OTP-2032-0753 at 0769; CAR-OTP-2079-0315 at 0322.

²⁸ CAR-OTP-2039-0133 at 0137.

²⁹ CAR-OTP-2027-2535 at 2541, 2545, 2552; CAR-OTP-2032-0753 at 0762, 0767, 0770-0771; CAR-OTP-2079-0315 at 0321.

³⁰ CAR-OTP-2027-2535 at 2541, 2544; CAR-OTP-2032-0753 at 0762-0763, 0770-0773; CAR-OTP-2039-0133 at 0139-0140; CAR-OTP-2053-0359 at 0363; CAR-OTP-2079-0315 at 0319-0320; CAR-OTP-2013-0557 at 0566.

³¹ CAR-OTP-2032-0753 at 0767; CAR-OTP-2027-2535 at 2547.

³² CAR-OTP-2032-0753 at 0759, 0768-0769, 0771; CAR-OTP-2079-0315 at 0319-0320.

³³ CAR-OTP-2027-2535 at 2548, 2552, 2557-2560; CAR-OTP-2032-0753 at 0762-0763, 0767, 0770-0771, 0773, 0775-0776; CAR-OTP-2042-4731 at 4735-4737; CAR-OTP-2025-0566 at 0572-0585; CAR-OTP-2015-0010 at 0013-0017.

³⁴ CAR-OTP-2068-0244 at 0246-0247.

³⁵ CAR-OTP-2084-0191 at 0203.

[REDACTED] the Seleka were in charge of the security of the entire complex.³⁶ As a matter of fact, career police officers did not exercise authority and were not asked to participate in operational activities.³⁷ They were rather perceived as “figure-heads”.³⁸ While career police officers would stay at the OCRB during working hours in the day, Seleka members would also spend the night in the compound,³⁹ and would conduct operations then, without the participation of career police officers.⁴⁰ [REDACTED],⁴¹ [REDACTED].⁴² The Seleka members and the career police officers wore different uniforms.⁴³

10. The CEDAD was created by presidential decree on 25 May 2013 to serve as an intelligence bureau for Michel Djotodia’s new government.⁴⁴ On 22 August 2013, when a new Minister for Security was nominated, Mahamat Nouradine Adam was appointed director general of the CEDAD with the rank of minister, per presidential decree.⁴⁵ Contrary to its mandate, the CEDAD [REDACTED] was used as a Seleka base⁴⁶ and a covert detention facility. It was organised in a manner similar to the OCRB.⁴⁷ There were career policemen at the CEDAD but they did not exercise any power, were instructed separately and had only administrative functions or roles in intelligence gathering. Unlike the Seleka, they had no weapons.⁴⁸

11. Further mistreatment and killings of civilians was reported in other locations. [REDACTED]. [REDACTED].⁴⁹ Others were detained in containers for long periods of time [REDACTED],⁵⁰ [REDACTED].⁵¹ These and other similar acts of violence allegedly resulted in thousands of residents fleeing their homes.⁵²

³⁶ CAR-OTP-2084-0191 at 0203.

³⁷ CAR-OTP-2068-0244 at 0261; CAR-OTP-2053-0359 at 0372.

³⁸ CAR-OTP-2084-0191 at 0203.

³⁹ CAR-OTP-2055-0137 at 0142.

⁴⁰ CAR-OTP-2068-0244 at 0256-0257.

⁴¹ CAR-OTP-2068-0244 at 0255.

⁴² CAR-OTP-2043-0536 at 0541.

⁴³ CAR-OTP-2084-0191 at 0203.

⁴⁴ CAR-OTP-2005-0375.

⁴⁵ CAR-OTP-2005-0369 at 0370; CAR-OTP-2005-0368.

⁴⁶ CAR-OTP-2023-0621 at 0627.

⁴⁷ CAR-OTP-2084-0191 at 0212.

⁴⁸ CAR-OTP-2023-0621 at 0626, 0628, 0632; CAR-OTP-2083-0003 at 0016.

⁴⁹ CAR-OTP-2023-0728 at 0735; CAR-OTP-2032-0703 at 0710.

⁵⁰ CAR-OTP-2025-0566 at 0577.

⁵¹ CAR-OTP-2036-0410 at 0427-0428.

⁵² CAR-OTP-2027-2535 at 2553; CAR-OTP-2032-0753 at 0780.

12. The Seleka targeted the civilian population based on religious grounds (Christians were considered to support the former Bozizé government),⁵³ affiliation with the former government (such as government employees),⁵⁴ ethnicity (the Gbaya tribe François Bozizé was from),⁵⁵ or location (specific neighbourhoods were considered as generally being supportive of François Bozizé).⁵⁶ The Seleka accused the persons falling within these categories of supporting François Bozizé⁵⁷ or “planning a coup” against the Seleka⁵⁸ – irrespective of any proof – in order to justify harassing,⁵⁹ detaining⁶⁰ or torturing⁶¹ them or simply extorting money from them.⁶²

13. To carry out the above-mentioned crimes, the Seleka made use of existing State infrastructure and part of the State apparatus after they captured Bangui. However, the Seleka leadership made sure that only persons considered being supportive of the Seleka were in positions of effective power.⁶³ Where necessary, they established structures which side-lined the existing institutions in order to guarantee full control by the pro-Seleka, for instance in the detention centres controlled by them,⁶⁴ or in the organisation of operations against neighbourhoods in Bangui and the control of public authority.⁶⁵ [REDACTED]. [REDACTED],⁶⁶ [REDACTED],⁶⁷ [REDACTED];⁶⁸ [REDACTED];⁶⁹ [REDACTED].⁷⁰ Commanders from different Seleka bases coordinated and cooperated in carrying out operations [REDACTED],⁷¹ [REDACTED].⁷²

⁵³ CAR-OTP-2043-0536 at 0546.

⁵⁴ CAR-OTP-2053-0359 at 0362; CAR-OTP-2083-0003 at 0006, 0007; CAR-OTP-2019-3348 at 3388.

⁵⁵ CAR-OTP-2019-3348 at 3383, 3391.

⁵⁶ CAR-OTP-2013-0557 at 0566; CAR-OTP-2053-0359 at 0363, para. 22.

⁵⁷ CAR-OTP-2023-1339 at 1343; CAR-OTP-2053-0359 at 0374.

⁵⁸ CAR-OTP-2013-0557 at 0568, 0570.

⁵⁹ CAR-OTP-0253-0359 at 0370.

⁶⁰ CAR-OTP-2068-0244 at 0262.

⁶¹ CAR-OTP-2083-0003 at 0037.

⁶² CAR-OTP-2023-1339 at 1346; CAR-OTP-0253-0359 at 0370.

⁶³ *See also* paras 9, 10 and 19.

⁶⁴ CAR-OTP-2084-0191 at 0203, 0204.

⁶⁵ CAR-OTP-2043-0536 at 0541.

⁶⁶ *See* paras 9, 10 and 19.

⁶⁷ CAR-OTP-2064-0137 at 0143-0144.

⁶⁸ CAR-OTP-2073-0568 at 0574.

⁶⁹ CAR-OTP-2040-0811 at 0820.

⁷⁰ CAR-OTP-2053-0359 at 0363.

⁷¹ CAR-OTP-2025-0566 at 0571.

⁷² CAR-OTP-2084-0191 at 0206.

14. In the meantime and in response to the 24 March 2013 *coup*, various members of François Bozizé’s inner circle organised a pro-Bozizé countermovement, composed of FACA and former *Garde Présidentielle* members as well as pre-existing and new self-defence groups.⁷³ The latter were gathered in Gobere, north of Bossangoa, in western CAR and organised into a military-like structure.⁷⁴ The movement came to be known as “Anti-Balaka”.⁷⁵ Their objectives were to (i) remove Michel Djotodia from power, defend against and oust the Seleka from the CAR;⁷⁶ and (ii) target the Muslim population in western CAR in retribution for the crimes and the abuses committed by the Seleka.⁷⁷

15. By September 2013, Anti-Balaka groups were engaged in hostilities against the Seleka in western CAR, starting in Bossangoa, spreading east to Bouca and then south to Bossemptélé, Bossembélé and Boali.⁷⁸ Even though the Seleka movement was officially disbanded by Michel Djotodia by presidential decree on 12 September 2013, it continued to exist and to engage in hostilities with the Anti-Balaka.⁷⁹ Hostilities culminated in an attack on Bangui on 5 December 2013 (the “5 December 2013 Bangui Attack”).⁸⁰ Various Anti-Balaka groups, comprising about 1,000 armed men, joined efforts and attacked Bangui from different directions, using heavy weapons, assault rifles and machetes.⁸¹ On the same day, Anti-Balaka elements attacked Bossangoa.⁸² The 5 December 2013 Bangui Attack was not immediately

⁷³ CAR-OTP-2074-2021 at 2052-2059; CAR-OTP-2001-5739 at 5782; CAR-OTP-2001-7017 at 7086-7087, paras 281-285; CAR-OTP-2061-1534 at 1540, paras 32-36, at 1546-1547, paras 84-87; CAR-OTP-2027-2290 at 2292-2295, paras 15-35; CAR-OTP-2001-0835 at 0875, para. 2.

⁷⁴ CAR-OTP-2031-0241 at 2846-0248, paras 28-39; CAR-OTP-2046-0603 at 0608-0609, paras 31-34; CAR-OTP-2072-1849 at 1850-1860; CAR-OTP-2041-0802; CAR-OTP-2041-0783.

⁷⁵ “Anti-Balaka” stands for “anti-machete” in the Sango language or “anti-bal-AK47”, meaning against the bullets of an AK-47; *see* CAR-OTP-2001-2769 at 2825; CAR-OTP-2031-0241 at 0244, para. 22.

⁷⁶ CAR-OTP-2061-1534 at 1540, para. 35, at 1546-1547, paras 84-87; CAR-OTP-2046-0603 at 0608, para. 31; CAR-OTP-2062-0039 at 0043, para. 28; CAR-OTP-2074-2021 at 2058-2059; CAR-OTP-2001-7017 at 7086, para. 282; CAR-OTP-2080-1678 at 1699-1799, lines 699-747.

⁷⁷ CAR-OTP-2088-1179 at 1181, 1194; CAR-OTP-2089-0056; *see also* CAR-OTP-2080-1678 at 1707, lines 985-1012.

⁷⁸ CAR-OTP-2046-0603 at 0608-0609, paras 34-35; CAR-OTP-2001-0835 at 0875, para. 1; CAR-OTP-2001-7017 at 7035, para. 46; CAR-OTP-2031-0241 at 0250; CAR-OTP-2034-4641 at 4641-4642; CAR-OTP-2075-0906 at 0907.

⁷⁹ CAR-OTP-2001-0391 at 0394, para. 7; CAR-OTP-2001-2123 at 2125.

⁸⁰ CAR-OTP-2001-0409 at 0409, para. 3; CAR-OTP-2001-0391 at 0394, para. 12.

⁸¹ CAR-OTP-2001-2769 at 2799; CAR-OTP-2001-0409 at 0409, para. 3; CAR-OTP-2001-2769 at 2776; CAR-OTP-2061-1534 at 1562, paras 180-181, at 1564, paras 189-191; CAR-OTP-2027-1631 at 1648; CAR-OTP-2027-2290 at 2297.

⁸² CAR-OTP-2031-0241 at 0251-0252; CAR-OTP-2001-5739 at 5788.

successful⁸³ and sparked a cycle of violent reprisals by the Seleka and the Anti-Balaka in various neighbourhoods in Bangui and throughout western CAR against civilians perceived as supporting the other side.⁸⁴ An estimated 1,000 persons were killed in Bangui alone in the day following the 5 December 2013 Bangui Attack.⁸⁵ Eventually, on 10 January 2014, Michel Djotodia resigned and the Seleka forces retreated to the north and east of the CAR.⁸⁶ A transitional government under interim President Catherine Samba-Panza took office.⁸⁷

16. In the light of the foregoing, the Single Judge finds reasonable grounds to believe⁸⁸ that an armed conflict not of an international character was ongoing on the territory of the CAR from at least March 2013 until at least January 2014 between the Seleka and the movement which during the relevant time became the Anti-Balaka consisting of forces loyal to the former government, such as the FACA, former *Garde Présidentielle* members and self-defence groups.⁸⁹ The Single Judge finds that there are reasonable grounds to believe that the Seleka and the Anti-Balaka qualify as armed groups within the meaning of article 8(2)(f) of the Statute, since, as the case may be, (i) they exhibit a sufficient degree of organisation, with commanders controlling militants within their respective bases, (ii) orders were circulated down the chain of command and were obeyed by subordinates, and (iii) they possessed military equipment, including firearms and heavy weapons, and had the ability to plan military operations and put them into effect. Further, the evidence shows that the violence between the above-mentioned armed groups rose above the level of isolated and sporadic acts of violence and that it was protracted, with the parties to the conflict employing attacks over a long period of time and at least in 5 western CAR Prefectures. Notably, the conflict has also attracted the attention of the United Nations

⁸³ CAR-OTP-2001-2769 at 2802; CAR-OTP-2001-5739 at 5788.

⁸⁴ CAR-OTP-2001-2769 at 2800-2801; CAR-OTP-2001-0409 at 0409-0410, paras 3, 7; CAR-OTP-2001-0329 at 0329, paras 2-3; CAR-OTP-2001-0310 at 0310-0312.

⁸⁵ CAR-OTP-2001-0310 at 0310; CAR-OTP-2001-2769 at 2800.

⁸⁶ CAR-OTP-2001-4199; CAR-OTP-2001-0409 at 0410-0411, paras 8-9; CAR-OTP-2001-5739 at 5789.

⁸⁷ CAR-OTP-2025-0372 at 0374; CAR-OTP-2001-0835 at 0866, para. 17.

⁸⁸ See Pre-Trial Chamber III, *Prosecutor v Jean-Pierre Bemba Gombo*, Decision on the Prosecutor's Application for a Warrant of Arrest against Jean-Pierre Bemba Gombo, 10 June 2008, ICC-01/05-01/08-14-tENG, para. 24.

⁸⁹ See Trial Chamber I, *Prosecutor v Thomas Lubanga Dyilo*, Judgment pursuant to Article 74 of the Statute, 14 March 2012, ICC-01/04-01/06-2842, paras 531-542; Trial Chamber II, *Prosecutor v Germain Katanga*, Judgment pursuant to article 74 of the Statute ("Katanga Judgment"), 7 March 2014, ICC-01/04-01/07-3436-tENG, paras 1172-1187.

Security Council (“UNSC”) in 2013-2014, triggered foreign military interventions,⁹⁰ and was marked by ceasefire agreements between the Seleka and its opponents, including the Anti-Balaka, which were not respected.

17. Moreover, the Single Judge also finds reasonable grounds to believe that, from at least March 2013 until at least January 2014, a widespread and systematic⁹¹ attack was conducted by members of the Seleka, [REDACTED], against the civilian population and those perceived to be collectively responsible for, complicit with or supportive of the former Bozizé government and, later, of the Anti-Balaka. In particular, it appears that, pursuant to a State or organisational policy⁹² aimed to keep the Seleka in power, part of the civilian population was targeted through multiple acts of murder, imprisonment, torture, rape, persecution on political, ethnic and religious grounds, and pillaging of houses belonging to non-Muslims and others perceived to be complicit with or supportive of the Bozizé government and, later, of the Anti-Balaka.

18. The Single Judge is satisfied that the supporting evidence, which includes ICC and non-ICC statements, public reports emanating from the United Nations (“UN”) and non-governmental organisations (“NGO”), and news reports, is sufficient to establish reasonable grounds to believe that a non-international armed conflict existed and a widespread and systematic attack against the civilian population occurred. The Single Judge also notes that the available information indicates that the Seleka may have also committed crimes outside of the temporal scope set by the Prosecutor in the Application, i.e., prior to March 2013 and after January 2014.⁹³

19. **The Crimes.** The Single Judge finds reasonable grounds to believe that Said, in his position as commander and top-ranking Seleka based at the OCRB from at least 12 April 2013 until OCRB’s closure on 22 August 2013; and as operations commander for the CEDAD [REDACTED], is responsible for having committed jointly with others and/or through others, or having ordered, solicited or induced, or of having aided, abetted or otherwise assisted in the commission of, or in any other way

⁹⁰ S/RES/2088 (2013) (CAR-OTP-2001-0294); S/RES/2121 (2013) (CAR-OTP-2001-0256); S/RES/2127 (2013) (CAR-OTP-2001-0275); S/RES/2134 (2013) (CAR-OTP-2051-0665); S/RES/2149 (2013) (CAR-OTP-2001-1043); S/RES/2181 (2013) (CAR-OTP-2091-0488).

⁹¹ See Katanga Judgment, para. 1123.

⁹² See Katanga Judgment, paras 1094-1122.

⁹³ CAR-OTP-2001-2707 at 2732-2733, 2735; CAR-OTP-2001-2769 at 2782-2785.

contributed to the commission of the following crimes committed between at least 12 April and at least 22 August 2013 in the OCRB, and between at least 22 August and at least 27 November 2013 in the CEDAD.

The OCRB

- a. When the Seleka took control of the OCRB, and at least from 12 April 2013, the number of prisoners increased significantly.⁹⁴ Arrests were undertaken during the night by Seleka members stationed at the OCRB and those arrested were brought to the detention centre.⁹⁵ Individuals were arrested by armed Seleka members in pick-up trucks with a military appearance, [REDACTED], or in vehicles with no licence plates and tinted windows.⁹⁶ The explanation given to most detainees for their arrest was affiliation with the Bozizé government, be it for being a soldier,⁹⁷ an intelligence agent for Bozizé,⁹⁸ supporting and helping the pro-Bozizé forces,⁹⁹ or being from the Gbaya ethnic group.¹⁰⁰ Most of them were accused of being Bozizé supporters or intelligence agents or having undertaken actions against the Seleka,¹⁰¹ although no judicial proceedings were conducted against them.¹⁰² Said or other senior Seleka members decided what the career police officers investigated and what was referred to the national prosecutor.¹⁰³ The Seleka at the OCRB asked some detainees or their families for ransom in exchange for their release.¹⁰⁴

Prisoners were held in small, dark, crowded cells with only a bucket as a toilet and little or no food, causing detainees to drink their own

⁹⁴ CAR-OTP-2068-0244 at 0264.

⁹⁵ CAR-OTP-2084-0191 at 0203.

⁹⁶ CAR-OTP-2029-0210 at 0215-0216; CAR-OTP-2018-0530 at 0538; CAR-OTP-2053-0359 at 0366; CAR-OTP-2025-0566 at 0572.

⁹⁷ CAR-OTP-2025-0566 at 0572, 0573.

⁹⁸ CAR-OTP-2025-0566 at 0573; CAR-OTP-2083-0003 at 0006.

⁹⁹ CAR-OTP-2023-1339 at 1344.

¹⁰⁰ CAR-OTP-2025-0566.

¹⁰¹ CAR-OTP-2068-0244 at 0264; CAR-OTP-2083-0003 at 0006, 0007.

¹⁰² CAR-OTP-2068-0244 at 0266.

¹⁰³ CAR-OTP-2036-0410 at 0418, 0425.

¹⁰⁴ CAR-OTP-2018-0530 at 0540; CAR-OTP-2043-0483 at 0505; CAR-OTP-2018-0530 at 0543.

urine.¹⁰⁵ The OCRB had 6 cells in total, of which 3 were apparently used by career police officers and 3 by the Seleka. The Seleka cells could not be accessed by the career police officers¹⁰⁶ and could contain 15-20 detainees.¹⁰⁷ In addition, prisoners were also detained in an underground cell which was accessed through a hole in the floor that Seleka members had covered with boards and had placed a desk on top.¹⁰⁸ The underground cell held up to 3 detainees at any one time.¹⁰⁹ There, [REDACTED], one of the detainees found a dead prisoner who had just been left there among the others and saw another detainee [REDACTED].¹¹⁰

As soon as they arrived at the OCRB, the detainees were mistreated, beaten with rifle butts,¹¹¹ or slapped violently and threatened that “[y]ou Bozizé’s mercenaries, we’re going to kill you one by one”.¹¹² Mistreatment of detainees occurred almost on a daily basis at the OCRB.¹¹³ In detention, prisoners were whipped with stripes of rubber tire or with sticks that had metal wires at the bottom; were beaten with truncheons or rifle butts; burnt; [REDACTED].¹¹⁴ A common method used by the Seleka was to tie detainees up in an “*arbatacha*” – a technique whereby the hands and legs are tied behind a person’s back, with the legs touching the elbows, causing great pain.¹¹⁵ They were then beaten, in order to extort confessions.¹¹⁶ The pain caused by this position would be so excruciating that prisoners would ask to be killed; after being tied up for several hours in this position the detainees were

¹⁰⁵ CAR-OTP-2025-0566 at 0573; CAR-OTP-2018-0530 at 0539-0540; CAR-OTP-2029-0210 at 0218.

¹⁰⁶ CAR-OTP-2036-0410 at 0422.

¹⁰⁷ CAR-OTP-2025-0566 at 0573.

¹⁰⁸ CAR-OTP-2036-0410 at 0423; CAR-OTP-2025-0566 at 0576; CAR-OTP-2073-0568 at 0578-0579.

¹⁰⁹ CAR-OTP-2036-0410 at 0423.

¹¹⁰ CAR-OTP-2025-0566 at 0576-0577.

¹¹¹ CAR-OTP-2025-0566 at 0573.

¹¹² CAR-OTP-2025-0566 at 0573.

¹¹³ CAR-OTP-2036-0410 at 0431.

¹¹⁴ CAR-OTP-2043-0536 at 0541; CAR-OTP-2018-0530 at 0547; CAR-OTP-2036-0410 at 0424, 0431; CAR-OTP-2029-0210 at 0220; CAR-OTP-2025-0566 at 0575.

¹¹⁵ CAR-OTP-2025-0566 at 0575.

¹¹⁶ CAR-OTP-2068-0244 at 0266; CAR-OTP-2083-0003 at 0011; CAR-OTP-2084-0191 at 0207.

unable to walk anymore.¹¹⁷ The torture left them unable to use their limbs.¹¹⁸ [REDACTED];¹¹⁹ [REDACTED];¹²⁰ others were so exhausted from the torture that they needed help to even change position.¹²¹ Others suffered from infections,¹²² but no medical attention was provided to the prisoners.¹²³

In the light of the foregoing, the Single Judge finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely imprisonment or other severe deprivation of physical liberty (article 7(1)(e) of the Statute),¹²⁴ torture (article 7(1)(f) of the Statute), persecution (article 7(1)(h) of the Statute)¹²⁵ and other inhumane acts (article 7(1)(k) of the Statute); and war crimes, committed in the context of and associated with an armed conflict not of an international character, namely torture and cruel treatment (article 8(2)(c)(i) of the Statute).

[REDACTED],¹²⁶ [REDACTED].

The Single Judge is satisfied that the supporting evidence, which includes ICC statements, is sufficient to establish reasonable grounds to believe that the above-mentioned crimes were committed.

The CEDAD

- b. From at least 22 August until at least 27 November 2013, persons arrested and transferred to the CEDAD were accused of supporting François Bozizé or planning a *coup* against the Seleka.¹²⁷ Some arrests

¹¹⁷ CAR-OTP-2025-0566 at 0575-0576.

¹¹⁸ CAR-OTP-2036-0410 at 0424.

¹¹⁹ CAR-OTP-2025-0566 at 0575.

¹²⁰ CAR-OTP-2036-0410 at 0424.

¹²¹ CAR-OTP-2025-0566 at 0574.

¹²² CAR-OTP-2036-0410 at 0424.

¹²³ CAR-OTP-2068-0244 at 0264.

¹²⁴ See Pre-Trial Chamber III, *Situation in the Republic of Burundi*, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Burundi (“Burundi Decision”), 9 November 2017, ICC-01/17-9-Red, para. 68.

¹²⁵ See Burundi Decision, paras 130-133.

¹²⁶ [REDACTED].

¹²⁷ CAR-OTP-2013-0557 at 0568, 0570; CAR-OTP-2064-0321 at 0330.

were carried out by people who were not identifiable as belonging to law enforcement, as they were wearing plain clothes, balaclavas or were using vehicles without number plates.¹²⁸

At the CEDAD more care was taken to attract as little public attention as possible: the name of the CEDAD was not mentioned publicly,¹²⁹ the Seleka were not allowed to wear their military uniforms when coming and going so as not to give away its location¹³⁰ and when prisoners were brought to the compound they were blindfolded so that they would not know where it was situated.¹³¹ The same was done when prisoners were released.¹³² The cars used to bring prisoners to the CEDAD had tinted windows.¹³³ The detainees could not receive any visits from their families as this was a secret location.¹³⁴ The guards kept two registers, one with real details of the detainees and another with false details. When family members would come looking for them, the guards would show them the false register so that no one could confirm that the prisoners were there.¹³⁵ Family members used to protest about their disappearance and were going around hospitals and morgues looking for them.¹³⁶

The detention conditions were inhumane. The cells were overcrowded, with up to 40 prisoners in a space of approximately 4 x 4 meters,¹³⁷ completely dark¹³⁸ and unbearably hot.¹³⁹ Detainees could only sleep leaning against walls or crouching down,¹⁴⁰ and were not allowed to use toilets, having to relieve themselves in the cells.¹⁴¹ Some prisoners

¹²⁸ CAR-OTP-2023-0537 at 0540; CAR-OTP-2023-1339 at 1341; CAR-OTP-2013-0557 at 0567.

¹²⁹ CAR-OTP-2084-0191 at 0214.

¹³⁰ CAR-OTP-2084-0191 at 0211.

¹³¹ CAR-OTP-2013-0557 at 0568; CAR-OTP-2064-0321 at 0325.

¹³² CAR-OTP-2023-0537 at 0545.

¹³³ CAR-OTP-2013-0557 at 0568; CAR-OTP-2023-0537 at 0540.

¹³⁴ CAR-OTP-2043-0536 at 0544; CAR-OTP-2023-0537 at 0544.

¹³⁵ CAR-OTP-2023-0537 at 0544; CAR-OTP-2013-0557 at 0574.

¹³⁶ CAR-OTP-2023-0537 at 0542, 0545; CAR-OTP-2023-0567 at 0581.

¹³⁷ CAR-OTP-2023-1339 at 1345; CAR-OTP-2064-0321 at 0327; CAR-OTP-2023-0537 at 0541; CAR-OTP-2013-0557 at 0571.

¹³⁸ CAR-OTP-2023-1339 at 1346.

¹³⁹ CAR-OTP-2023-1339 at 1347.

¹⁴⁰ CAR-OTP-2023-0537 at 0542; CAR-OTP-2064-0321 at 0327.

¹⁴¹ CAR-OTP-2023-1339 at 1347; CAR-OTP-2064-0321 at 0327.

were kept handcuffed¹⁴² for days or even for the entire time they were at the CEDAD.¹⁴³ Other prisoners were kept in containers, next to the CEDAD building.¹⁴⁴ No medical attention was provided, even in cases of detainees suffering serious medical conditions.¹⁴⁵

Prisoners were beaten regularly, sometimes while being hooded and handcuffed,¹⁴⁶ including with whips¹⁴⁷ or with planks and kicks; some had their ribs broken.¹⁴⁸ Some of them even lost consciousness during the beating.¹⁴⁹ They were beaten for weeks, at times.¹⁵⁰ [REDACTED].¹⁵¹ When being beaten they were accused of planning a *coup* and asked to give up names of co-conspirators.¹⁵² Some persons were released without any formal document regarding their detention and never appeared before a tribunal.¹⁵³ In case the prisoners were brought in front of a tribunal and formally released, they were warned by the discharging authorities to be careful and not to go to their homes, since the Seleka might still be looking for them or pick them up again.¹⁵⁴

In the light of the foregoing, the Single Judge finds reasonable grounds to believe that the acts described above amount to crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely imprisonment or other severe deprivation of physical liberty (article 7(1)(e) of the Statute), torture (article 7(1)(f) of the Statute), persecution (article 7(1)(h) of the Statute), enforced disappearance (article 7(1)(i) of the Statute)¹⁵⁵ and other inhumane acts (article 7(1)(k) of the Statute); and war crimes,

¹⁴² CAR-OTP-2064-0321 at 0326.

¹⁴³ CAR-OTP-2023-0537 at 0541-0542.

¹⁴⁴ CAR-OTP-2013-0557 at 0572.

¹⁴⁵ CAR-OTP-2023-1339 at 1345; CAR-OTP-2013-0557 at 0570.

¹⁴⁶ CAR-OTP-2064-0321 at 0326 and 0329.

¹⁴⁷ CAR-OTP-2023-0537 at 0542.

¹⁴⁸ CAR-OTP-2013-0557 at 0569.

¹⁴⁹ CAR-OTP-2013-0557 at 0569; CAR-OTP-2064-0321 at 0326.

¹⁵⁰ CAR-OTP-2013-0557 at 0570.

¹⁵¹ CAR-OTP-2064-0321 at 0326.

¹⁵² CAR-OTP-2013-0557 at 0570.

¹⁵³ CAR-OTP-2064-0321 at 0331.

¹⁵⁴ CAR-OTP-2023-0537 at 0545.

¹⁵⁵ See Burundi Decision, paras 117-121.

committed in the context of and associated with an armed conflict not of an international character, namely torture and cruel treatment (article 8(2)(c)(i) of the Statute).

[REDACTED],¹⁵⁶ [REDACTED].

The Single Judge is satisfied that the supporting evidence, which includes ICC statements, is sufficient to establish reasonable grounds to believe that the abovementioned crimes were committed.

20. **Said's Conduct.** [REDACTED].¹⁵⁷ [REDACTED],¹⁵⁸ [REDACTED].¹⁵⁹ Said, as the top-ranking Seleka based at the OCB, exercised authority over all OCB Seleka members [REDACTED].¹⁶⁰ The OCB Seleka members were given identification cards [REDACTED] with the code "CMSAK", which stood for Said's rank and initials.¹⁶¹ The career police officers based at the OCB also had to comply with Said's orders.¹⁶² Said oversaw the day-to-day operations of the OCB.¹⁶³ In this capacity, he, *inter alia*, [REDACTED];¹⁶⁴ [REDACTED];¹⁶⁵ [REDACTED];¹⁶⁶ organised and/or carried out arrests even though he refused to register detainees;¹⁶⁷ and exercised authority over the prisoners,¹⁶⁸ including with regard to the conditions of detention.¹⁶⁹ At times, Said instructed OCB Seleka members to mistreat detainees for allegedly supporting François Bozizé or the Anti-Balaka,¹⁷⁰ [REDACTED].¹⁷¹ Said also referred to the "*arbatacha*" technique used on OCB detainees as "the most

¹⁵⁶ [REDACTED].

¹⁵⁷ CAR-OTP-2019-3348 at 3381, para. 263; CAR-OTP-2001-2890 at 2933-2934.

¹⁵⁸ CAR-OTP-2005-0404; CAR-OTP-2068-0244 at 0255.

¹⁵⁹ CAR-OTP-2001-2890 at 2933; CAR-OTP-2075-0812 at 0823, para. 56; CAR-OTP-2019-3348 at 3392, para. 357.

¹⁶⁰ CAR-OTP-2036-0410 at 0418, para. 41; CAR-OTP-2043-0536 at 0541, para. 33; CAR-OTP-2049-0166 at 0174, para. 48; CAR-OTP-2068-0244 at 0256, para. 71; CAR-OTP-2083-0003 at 0009, para. 27, at 0010, para. 31; CAR-OTP-2025-0566 at 0585, para. 137.

¹⁶¹ CAR-OTP-2055-0137 at 0145-0146, paras 47-50; CAR-OTP-2055-0194; CAR-OTP-2055-0195.

¹⁶² CAR-OTP-2036-0410 at 0418, para. 41.

¹⁶³ CAR-OTP-2084-0191 at 0204, paras 70, 72.

¹⁶⁴ CAR-OTP-2068-0244 at 0257, para. 73; CAR-OTP-2084-0191 at 0203, para. 68, at 0204, para. 73.

¹⁶⁵ CAR-OTP-2068-0244 at 0256, para. 71; CAR-OTP-2084-0191 at 0204, para. 73.

¹⁶⁶ CAR-OTP-2068-0244 at 0256, para. 68.

¹⁶⁷ CAR-OTP-2055-0137 at 0148, para. 58, at 0149, para. 64; CAR-OTP-2084-0191 at 0203, para. 68, at 0204, para. 73; CAR-OTP-2068-0244 at 0263, para. 111.

¹⁶⁸ CAR-OTP-2084-0191 at 0205, para. 77.

¹⁶⁹ CAR-OTP-2068-0244 at 0264, paras 116-117.

¹⁷⁰ CAR-OTP-2036-0410 at 0431, para. 98; CAR-OTP-2084-0191 at 0207, para. 95, at 0208, para. 98; CAR-OTP-2055-0137 at 0147, para. 54.

¹⁷¹ CAR-OTP-2055-0137 at 0148, paras 58-59.

effective to obtain confessions”.¹⁷² He did not intervene to stop the mistreatment of detainees by OCRB Seleka members.¹⁷³ Furthermore, Said decided that certain prisoners were to be held in the underground cell, which was located under his office,¹⁷⁴ including at least one mistreated person.¹⁷⁵ In addition, he took part in the extortion of the detainees or their families for ransom to secure their release.¹⁷⁶ Mahamat Nouradine Adam was replaced as Minister of Security on 22 August 2013¹⁷⁷ and, soon afterwards, Said ordered the Seleka to leave the OCRB.¹⁷⁸

21. When Mahamat Nouradine Adam was appointed as the Director General of the CEDAD on 22 August 2013,¹⁷⁹ Said contributed to the set-up of the CEDAD by instructing several Seleka members, who had worked under his command at the OCRB, to redeploy to the CEDAD.¹⁸⁰ Said became [REDACTED] operations commander for the CEDAD [REDACTED].¹⁸¹ [REDACTED].¹⁸² The CEDAD Seleka were under the authority of Said.¹⁸³ Said was at the CEDAD most of the time and, if he was not present, he would be personally informed by the duty officer of important events.¹⁸⁴ He kept a list of persons to be arrested¹⁸⁵ and ordered CEDAD Seleka to carry out arrests and bring persons to the CEDAD.¹⁸⁶ Said also repeatedly ordered CEDAD detainees to be beaten for allegedly supporting François Bozizé.¹⁸⁷

22. In sum, the Single Judge is satisfied that Said, [REDACTED], was in charge of operations of the OCRB and CEDAD and, in this capacity, he, *inter alia*, contributed to the arrest of various persons, controlled the conditions in which the detainees were held and instructed the Seleka members to mistreat detainees.

¹⁷² CAR-OTP-2068-0244 at 0262, para. 105.

¹⁷³ CAR-OTP-2068-0244 at 0262, para. 102, at 0262-0263, para. 106.

¹⁷⁴ CAR-OTP-2043-0536 at 0541, para. 39; CAR-OTP-2068-0244 at 0265, para. 119; CAR-OTP-2036-0410 at 0423, paras 58-59.

¹⁷⁵ CAR-OTP-2068-0244 at 0265-0266, paras 124-125.

¹⁷⁶ CAR-OTP-2068-0244 at 0263, paras 109-110; CAR-OTP-2036-0410 at 0426, paras 74-75.

¹⁷⁷ CAR-OTP-2005-0369 at 0370.

¹⁷⁸ CAR-OTP-2043-0536 at 0543, para. 51; CAR-OTP-2083-0003 at 0020-0021, para. 98.

¹⁷⁹ CAR-OTP-2005-0368 at 0368.

¹⁸⁰ CAR-OTP-2043-0536 at 0543-0544, paras 53-55; CAR-OTP-2084-0191 at 0211-0212, paras 116-118.

¹⁸¹ CAR-OTP-2084-0191 at 0213, para. 128.

¹⁸² CAR-OTP-2083-0003 at 0014, para. 60; CAR-OTP-2043-0536 at 0544, para. 55.

¹⁸³ CAR-OTP-2083-0003 at 0014, para. 60; CAR-OTP-2043-0536 at 0544, para. 55.

¹⁸⁴ CAR-OTP-2084-0191 at 0213-0214, para. 131; CAR-OTP-2083-0003 at 0016, para. 75.

¹⁸⁵ CAR-OTP-2083-0003 at 0014, para. 64.

¹⁸⁶ CAR-OTP-2043-0536 at 0546, paras 71-72.

¹⁸⁷ CAR-OTP-2043-0536 at 0545, para. 66.

23. Taking into account the totality of the evidence, the Single Judge finds reasonable grounds to believe that, in the first place, Said committed the above-mentioned crimes jointly with others, including [REDACTED] Seleka members stationed at the OCRB and CEDAD, and/or through others with a view to detaining and mistreating persons at the OCRB and the CEDAD who were perceived as opposing the Seleka regime, in furtherance of the Seleka policy to maintain power at any cost (article 25(3)(a) of the Statute);¹⁸⁸ or ordered, solicited or induced these crimes (article 25(3)(b) of the Statute);¹⁸⁹ or aided, abetted or otherwise assisted in the commission of these crimes (article 25(3)(c) of the Statute);¹⁹⁰ or in any other way contributed to the commission of these crimes (article 25(3)(d) of the Statute).¹⁹¹ The Single Judge is satisfied that Said acted with the required intent and knowledge for the specific crimes set forth in this warrant of arrest. In addition, the Single Judge is satisfied that Said (i) knew that the crimes were or intended the crimes to be part of a widespread and systematic attack against the civilian population,¹⁹² and (ii) was aware of the factual circumstances that established the existence of the non-international armed conflict.¹⁹³ In the second place, the Single Judge is satisfied that Said, given his effective control over the Seleka members operating in OCRB and CEDAD, alternatively bears criminal responsibility as a military commander since he knew or, owing to the circumstances at the time, should have known that the members of his Seleka group were committing or were about to commit the crimes described above and he failed to take all necessary and reasonable measures within his power to

¹⁸⁸ See Trial Chamber VII, *Prosecutor v Jean-Pierre Bemba Gombo et al*, Judgment pursuant to Article 74 of the Statute (“Bemba et al Judgment”), 19 October 2016, ICC-01/05-01/13-1989-Red, paras 64-71; Katanga Judgment, paras 1398-1416; Pre-Trial Chamber II, *Prosecutor v Germain Katanga and Mathieu Ngudjolo Chui*, Decision on the confirmation of charges, 30 September 2008, ICC-01/04-01/07-717, paras 487-539.

¹⁸⁹ See Pre-Trial Chamber II, *Prosecutor v. Sylvestre Mudacumura*, Decision on the Prosecutor’s Application under Article 58, 13 July 2012, ICC-01/04-01/12-1-Red, para. 63; Bemba et al Judgment, paras 72-82.

¹⁹⁰ See Appeals Chamber, *Prosecutor v Jean-Pierre Bemba Gombo et al*, Judgment on the appeals of Mr Jean-Pierre Bemba Gombo, Mr Aimé Kilolo Musamba, Mr Jean-Jacques Mangenda Kabongo, Mr Fidèle Babala Wandu and Mr Narcisse Arido against the decision of Trial Chamber VII entitled “Judgment pursuant to Article 74 of the Statute”, 8 March 2018, ICC-01/05-01/13-2275-Red, paras 18-21.

¹⁹¹ See Katanga Judgment, paras 1616-1642.

¹⁹² See paragraph 2 of the Introduction to Crimes against Humanity (Article 7) in the Elements of Crimes.

¹⁹³ See paragraph 3 of the Introduction to War Crimes (Article 8) in the Elements of Crimes.

prevent or repress the commission by his subordinates of such crimes (article 28(a) of the Statute).¹⁹⁴

24. Accordingly, the Single Judge is satisfied that the overall supporting evidence is sufficient to establish reasonable grounds to believe that Said bears individual criminal responsibility for the crimes described in paragraph 19.

25. Finally, the Single Judge notes that the Prosecutor has requested a warrant of arrest for Said exclusively for his responsibility for crimes allegedly committed at the OCRB and the CEDAD.¹⁹⁵ [REDACTED].¹⁹⁶

2. *Whether the arrest of Said appears necessary (Article 58(1)(b) of the Statute)*

26. The Single Judge is satisfied, in conformity with article 58(1)(b) of the Statute, that the arrest of Said appears necessary to ensure that he (i) appears at trial; and (ii) is prevented from continuing with the commission of crimes within the jurisdiction of the Court arising out of the same circumstances. The Single Judge notes that Said was reportedly involved in the violent disruption of an electoral campaign in June 2015,¹⁹⁷ as appointed member¹⁹⁸ of the “*Front Populaire pour la Renaissance de la Centrafrique*” (“FPRC”), an ex-Seleka group [REDACTED].¹⁹⁹ The FPRC is also believed to have been involved in armed clashes in the CAR as recently as October 2016.²⁰⁰ Said has also been described as a military commander holding the PK5 neighbourhood of Bangui “to ransom”.²⁰¹ Said thus retains connections to and authority over Seleka fighters loyal to him and the armed conflict in the CAR has not ceased to this day.²⁰² This information renders Said’s voluntary surrender implausible and demonstrates his willingness to continue committing related crimes within the jurisdiction of the Court arising from the circumstances described in this warrant of

¹⁹⁴ See Pre-Trial Chamber II, *Prosecutor v Jean-Pierre Bemba Gombo*, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo, 15 June 2009, ICC-01/05-01/08-424, paras 404-443.

¹⁹⁵ ICC-01/14-19-US-Exp, Part D.III.

¹⁹⁶ CAR-OTP-2036-0410 at 0417, para. 37; CAR-OTP-2094-0002 at 0029, paras 165-166.

¹⁹⁷ CAR-OTP-2020-0234 at 0234.

¹⁹⁸ CAR-OTP-2016-0002 at 0008, entry 29.

¹⁹⁹ CAR-OTP-2016-0002 at 0002.

²⁰⁰ CAR-OTP-2051-0687 at 0692; CAR-OTP-2051-0393 at 0412; CAR-OTP-2051-0827 at 0829; CAR-OTP-2051-0703 at 0706.

²⁰¹ CAR-OTP-2023-0032 at 0041, footnote 28; CAR-OTP-2019-3348 at 3392, para. 358.

²⁰² CAR-OTP-2051-0703 at 0706.

arrest. Consequently, there is a need to prevent him from doing so. In the light of the foregoing, the Single Judge deems the issuance of a warrant of arrest necessary.

IV. Classification and Other Requests

27. For the reasons provided in the Application, the Single Judge is satisfied that making it public at this stage could prevent or significantly impede the execution of the present warrant of arrest. Therefore, the Single Judge accepts the classification proposed by the Prosecutor for the Application and also retains the classification of the present warrant of arrest, as under seal, *ex parte* Prosecutor only, pursuant to regulation 23*bis* of the Regulations of the Court. The Single Judge authorises the Prosecutor and the Registry to communicate this warrant of arrest to any State or international organisation, or, as the case may be, to reveal its existence, for the purposes of its execution. However, the Single Judge is of the view that, at the latest once Said is transferred to the Court, this warrant of arrest will have to be made public, with the necessary redactions, as the case may be.

28. [REDACTED],²⁰³ [REDACTED]. [REDACTED]. [REDACTED].

FOR THESE REASONS, THE SINGLE JUDGE HEREBY

ISSUES a warrant of arrest for Mahamat Said Abdel Kani, a national of the Central African Republic, born on 25 February 1970 in Bria, Ndele Province, for his alleged criminal responsibility pursuant to articles 25(3)(a), (b), (c) and (d) and 28(a) of the Statute for imprisonment or other severe deprivation of liberty (article 7(1)(e) of the Statute), torture (article 7(1)(f) of the Statute), persecution (article 7(1)(h) of the Statute), enforced disappearance (article 7(1)(i) of the Statute) and other inhumane acts (article 7(1)(k) of the Statute) as crimes against humanity; and torture (article 8(2)(c)(i) of the Statute) and cruel treatment (article 8(2)(c)(i) of the Statute) as war crimes, committed in the OCRB and CEDAD detention centres in Bangui between at least 12 April 2013 and at least 27 November 2013, as set forth in this warrant of arrest;

²⁰³ ICC-01/14-19-US-Exp, paras 278-280.

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

DECIDES that, as soon as practicable, the Registrar shall: (i) prepare a request for cooperation seeking the arrest and surrender of Said and containing the information and documents required by articles 89(1) and 91 of the Statute and rule 187 of the Rules of Procedure and Evidence; and (ii) transmit, in consultation and coordination with the Prosecutor, the request to the competent authorities of any relevant State, or to any international organisation, in accordance with article 87 of the Statute, to cooperate with the Court for the purpose of executing the request for arrest and surrender of Said;

DECIDES that, when transmitting the request for arrest and surrender to the relevant national authorities of any arresting State, the Registrar shall request them, in accordance with articles 93(1) and 99(1) of the Statute, to restrict, as far as possible under their national law, the contacts of Said while detained on their territory, pending his surrender to the Court;

DIRECTS the Registrar to prepare and transmit to any relevant State, in consultation and coordination with the Prosecutor, any request for transit pursuant to article 89(3) of the Statute or any request for provisional arrest pursuant to article 92 of the Statute which may be necessary for the surrender of Said to the Court;

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

DIRECTS the Registrar to prepare and transmit to the relevant national authorities of any arresting State a request for cooperation [REDACTED];

ORDERS the Registrar to prepare, as soon as practicable, a French translation of the present warrant of arrest for the purpose of transmitting it to the competent authorities of any relevant State, if necessary;

ORDERS the Registrar to register the warrant of arrest in the record of the situation and to open a case record and transfer first the Prosecutor's application (ICC-01/14-19-US-Exp) from the situation record into the case record once the suspect has been arrested; and

ORDERS the Prosecutor, within three days of the notification of the present warrant of arrest, to inform the Chamber whether this warrant may be made public without redactions or, alternatively, which redactions, according to the Prosecutor, should be applied to the warrant when it is made public.

Done in both English and French, the English version being authoritative.

A handwritten signature in black ink, consisting of a large, stylized initial 'R' followed by a series of loops and a long horizontal stroke extending to the right.

**Judge Rosario Salvatore Aitala,
Single Judge**

Dated this Monday, 7 January 2019

At The Hague, The Netherlands