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TRIAL CHAMBER VI

Before: Judge Miatta Maria Samba, Presiding Judge
Judge María del Socorro Flores Liera
Judge Sergio Gerardo Ugalde Godínez

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

Public

**Public Redacted Version of “Prosecution’s Trial Brief”, ICC-01/14-01/21-359-Conf, dated
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I. INTRODUCTION

1. In accordance with the order of Trial Chamber VI,¹ the Prosecution hereby submits its Trial Brief. Pursuant to article 66(3) of the Rome Statute, the evidence summarised in this Trial Brief, and as will be adduced during the course of the trial, demonstrates beyond reasonable doubt that Mahamat Said Abdel Kani (“**SAID**”) committed the crimes charged in the Document Containing the Charges,² as confirmed by Pre-Trial Chamber II.³
2. **SAID** is charged with the crimes of imprisonment as a crime against humanity (article 7(1)(e)), the crime of torture as a crime against humanity (article 7(1)(f)) and as a war crime (article 8(2)(c)(i)-4)), the crime of cruel treatment as a war crime (article 8(2)(c)(i)-(3)), the crime of outrages upon personal dignity as a war crime (article 8(2)(c)(ii)), and the crime of persecution as a crime against humanity (article 7(1)(h)) at the OCRB from at least 12 April 2013 until 30 August 2013 (COUNTS 1 to 7), by committing those crimes jointly with others (article 25(3)(a)), and ordering or inducing those crimes (article 25(3)(b)).⁴

II. CONTEXTUAL ELEMENTS OF WAR CRIMES AND CRIMES AGAINST HUMANITY

Contextual elements of article 8 (War crimes)

3. From at least late 2012 until at least 10 January 2014, an armed conflict not of an international character was ongoing on the territory of the CAR.⁵
4. This armed conflict involved a coalition of groups called the “Seleka” fighting against a group of forces aligned with a prominent politician, François BOZIZE.⁶ While different forces were prominent at different times within this group, as explained below, all advanced the interest of BOZIZE against the Seleka. Together, therefore, they are described as the “pro-BOZIZE forces.” At the outset of the conflict, BOZIZE was the

¹ Decision Setting the Commencement Date of the Trial and Related Deadlines, ICC-01/14-01/21-243, 21 Febr. 2022, para. 23.

² Document Containing the Charges, ICC-01/14-01/21-144-Conf-Corr, 16 Aug. 2021.

³ Pre-Trial Chamber II partially confirmed the charges set out in the Document Containing the Charges. The confirmed charges are set out in the operative part of the Confirmation Decision. See Confirmation Decision, ICC-01/14-01/21-218, 9 Dec. 2021 (“Confirmation Decision”), pp. 50-62.

⁴ Confirmation Decision (Operative Part), paras. 24, 33-36, 37-38, 39-40.

⁵ See Confirmation Decision (Operative Part), p. 51, para. 2 (confirming to the requisite standard that there was an armed conflict not of an international character on the territory of the CAR at all time material to these charges, including from at least March 2013 until at least January 2014).

⁶ See *infra*, paras. 10, 14-18.

long-time President of the CAR, having been in power since 2003.⁷ The Seleka coalition was united by their shared dissatisfaction with the existing BOZIZE-led government.⁸

5. In late 2012,⁹ the Seleka launched a military offensive in northern CAR, occupying towns and advancing southward towards Bangui, the capital of CAR.¹⁰ During this period, the Seleka regularly clashed with forces loyal to then-President BOZIZE, including the CAR military, the *Forces Armées Centrafricaines* (“FACA”).¹¹ The fighting was sufficiently intense that the international community became involved in brokering a ceasefire agreement between the Seleka and the CAR government,¹² which was signed on 11 January 2013.¹³
6. On 24 March 2013, despite the ceasefire agreement, the Seleka launched a major military assault on Bangui. The Seleka forcibly took control of the city, ousted BOZIZE,¹⁴ and installed their leader Michel DJOTODIA¹⁵ as the new President.¹⁶
7. As set out below in more detail, after 24 March 2013, hostilities continued between forces loyal to the former government of BOZIZE and the Seleka, though initially at a lower degree of frequency and intensity than just prior to the takeover.¹⁷ Meanwhile, from exile

⁷ **P-1420:** CAR-OTP-2040-0811-R01 at 0813, para. 14; **OHCHR:** CAR-OTP-2034-0270 at 0271, para. 5; **HRW Report:** CAR-OTP-2001-1870 at 1910.

⁸ **P-2625:** CAR-OTP-2123-0377-R01 at 0381-0382, paras. 22-31 (Fr); **P-0291:** CAR-OTP-2024-0036-R01 at 0041, 0044-0045, paras. 22-26, 50-51 (Fr); **P-0349:** CAR-OTP-2074-0041-R01 at 0047-0048, para. 37 (Fr); **P-1263:** CAR-OTP-2045-0805-R01 at 0808, para. 20 (Fr); **P-0342:** CAR-OTP-2127-7319-R01 at 7323, para. 18 (Fr); **P-1297:** CAR-OTP-2107-1354-R01 at 1358, para. 21 (Fr); **ICG Policy Briefing:** CAR-OTP-2001-2123 at 2125; **FIDH Report:** CAR-OTP-2001-2890 at 2897; **IPIS Report:** CAR-OTP-2001-5739 at 5762.

⁹ **P-1420:** CAR-OTP-2130-1827-R01 at 1831, para. 19 (Fr); **FIDH Report:** CAR-OTP-2001-2890 at 2898; **P-0291:** CAR-OTP-2024-0036-R01 at 0044-0045, paras. 50-51 (Fr).

¹⁰ See, e.g., **P-2563:** CAR-OTP-2118-2807-R01 at 2821, Ins. 447-469; **P-0291:** CAR-OTP-2024-0036-R01 at 0044-0045, paras. 50-52 (Fr); **P-2105:** CAR-OTP-2078-0003-R01 at 0006-0008, paras. 20, 22, 29 (Fr); **P-0510:** CAR-OTP-2104-0996-R01 at 1000, para. 13 (Fr); **P-0435:** CAR-OTP-2017-0036-R01 at 0042-0043, para. 33-36 (Eng); **FIDH Report:** CAR-OTP-2001-2890 at 2898-2899; **IPIS Report:** CAR-OTP-2001-5739 at 5759, 5764.

¹¹ **FIDH Report:** CAR-OTP-2001-2890 at 2898; **P-2105:** CAR-OTP-2078-0003-R01 at 0006-0008, paras. 20, 22, 32 (Fr); **P-0481:** CAR-OTP-2104-1024-R01 at 1030, paras. 28-30 (Fr); **P-0312:** CAR-OTP-2122-3598-R01 at 3603, para. 24 (Fr); **P-0510:** CAR-OTP-2104-0996-R01 at 1000-1001, paras. 13-15 (Fr); **P-1737:** CAR-OTP-2130-2086-R01 at 2089, para. 13 (Fr).

¹² **P-0291:** CAR-OTP-2034-0104-R01 at 0113, paras. 51-55. See also **P-2563:** CAR-OTP-2118-2807-R01 at 2821, Ins. 465-469.

¹³ **Libreville Agreement:** CAR-OTP-2101-3081; **OHCHR interim report:** CAR-OTP-2001-0172 at 0176.

¹⁴ See, e.g., **P-0349:** CAR-OTP-2074-0041-R01 at 0047, para. 34 (Fr); CAR-OTP-2075-0812-R01 at 0819, para. 34 (Eng); **P-1737:** CAR-OTP-2130-2086-R01 at 2089, paras. 14-15 (Fr); CAR-OTP-2055-0137-R01 at 0139, paras. 14-15 (Eng); **P-2328:** CAR-OTP-2099-0165-R01 at 0173, paras. 44-45 (Fr).

¹⁵ **P-0291:** CAR-OTP-2034-0104-R01 at 0116, paras. 71-73 (Eng); **P-1420:** CAR-OTP-2130-1827-R01 at 1837, para. 49 (Fr); CAR-OTP-2040-0811-R01 at 0820, para. 49 (Eng).

¹⁶ **IPIS Report:** CAR-OTP-2001-5739 at 5760; **OHCHR:** CAR-OTP-2034-0270 at 0272, para. 12; **FIDH Report:** CAR-OTP-2001-2890 at 2899, 2903.

¹⁷ See *infra*, paras. 11-13, 40-41, 44-46.

in Cameroon or along the border regions of the CAR, BOZIZE and his allies continued to organise armed resistance against the Seleka. Among other actions, they activated pre-existing “self-defence” groups, training and arming them. By mid-to-late 2013, the pro-BOZIZE forces together with these other factions had become widely known as the “Anti-Balaka.”

8. On 5 December 2013, the pro-BOZIZE forces/Anti-Balaka launched a large-scale attack on Bangui in a coordinated attempt to oust the Seleka. The attack was not immediately successful in ousting the Seleka regime, but it was followed by ongoing clashes between the Seleka and the pro-BOZIZE forces/Anti-Balaka, with civilians caught in the middle or directly targeted in reprisal for their perceived support for one or the other party.¹⁸ On 10 January 2014, facing intense international pressure due to the intensifying armed conflict,¹⁹ President DJOTODIA resigned, and the Seleka were forced to retreat.²⁰

1. Existence of an armed conflict not of an international character

9. International humanitarian law applies (among other circumstances) once an armed conflict not of an international character, defined as “protracted armed violence between governmental authorities and organized armed groups or between such groups within a State,” has come into existence.²¹ The conflict in CAR that occurred between late 2012 until at least 10 January 2014 met this standard, which requires the occurrence of hostilities of sufficient intensity between parties exhibiting a sufficient degree of organisation.²²
10. As detailed below, the parties to this non-international armed conflict in CAR were the Seleka coalition and, opposing them, the pro-BOZIZE forces — which included (among others) the FACA until 24 March 2013, and later included elements of the FACA personally loyal to BOZIZE, and ultimately the coalition known as the Anti-Balaka.

¹⁸ **P-1297:** CAR-OTP-2107-1354-R01 at 1366-1368, paras. 69, 77-78 (Fr); **P-2328:** CAR-OTP-2099-0165-R01 at 0185, para. 99 (Fr); **IPIS Report:** CAR-OTP-2001-5739 at 5761.

¹⁹ See, e.g., **P-1420:** CAR-OTP-2130-1827-R01 at 1854-1855, para. 151 (Fr).

²⁰ **P-1420:** CAR-OTP-2130-1827-R01 at 1854-1855, paras. 151-152 (Fr); **UN SG Report:** CAR-OTP-2001-0409 at 0410-0411, paras. 8-9; **Media Article:** CAR-OTP-2001-4199; **IPIS Report:** CAR-OTP-2001-5739 at 5789.

²¹ See, e.g., *Prosecutor v. Dominic Ongwen*, Trial Judgment, ICC-02/04-01/15-1762-Red, 4 February 2021 (“Ongwen TJ”), para. 2683; *Prosecutor v. Bosco Ntaganda*, Judgment, ICC-01/04-02/06-2359, 8 July 2019 (“Ntaganda TJ”), paras. 701-702.

²² See, e.g., *Prosecutor v. Thomas Lubanga Dyilo*, Judgment pursuant to Article 74 of the Statute, ICC-01/04-01/06-2842, 14 March 2012 (“Lubanga TJ”), paras. 84, 89-90, 170; ICTY, *Prosecutor v. Haradinaj et al.*, Judgment, IT-04-84-T, 3 April 2008 (“Haradinaj TJ”), paras. 37-60; *Prosecutor v. Boškoski and Tarčulovski*, Judgment, IT-04-82-T, 10 July 2008 (“Boškoski TJ”), para. 175.

11. The requirements to establish the application of the law of non-international armed conflict do not exclude changes in the composition or configuration of the armed forces belonging to a party to the conflict, or fluctuations in the intensity of the hostilities. To the contrary, both these occurrences may form part of the natural ebb and flow of a conflict, and do not imply its premature end.²³ This conforms to the settled law that, once it has come into existence, a non-international armed conflict terminates only when a “peaceful settlement” is reached²⁴ — that is to say, the complete victory of a party to the conflict (*debellatio*)²⁵ or a “lasting absence of armed confrontations” between the parties,²⁶ with or without “the conclusion or unilateral pronouncement of a formal act such as a ceasefire, armistice or peace agreement,”²⁷ but in any event “without real risk of resumption.”²⁸
12. It follows from these principles that the continuous application of the law of non-international armed conflict is not necessarily interrupted if control of the State government is wrested from one party to the conflict by another. For example, in Sierra Leone, the non-international armed conflict continued notwithstanding the ouster of the Kabbah government by the AFRC/RUF, or the subsequent ejection of the AFRC/RUF government and the restoration of the Kabbah government.²⁹ Associated changes in the formal designation of the armed forces belonging to a party to the conflict are not necessarily of legal significance;³⁰ nor even a tactical

²³ See, e.g., ICRC, *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*, Report prepared for 32nd International Conference of the Red Cross and Red Crescent (Geneva, 2015) (“ICRC *Challenges Report*”), p. 10. See also Ongwen TJ, para. 2684 (“It is [...] not required that the violence be continuous and uninterrupted”); ICTY, *Prosecutor v. Halilović*, Judgment, IT-01-48-T, 16 November 2005, para. 32, fn. 72; C. Dwyer and T. McCormack, ‘Conflict classification,’ in R. Livoja and T. McCormack (eds.), *Routledge Handbook of the Law of Armed Conflict* (Abingdon: Routledge, 2016), p. 56 (“reduction in the intensity or scope of the violence will not necessarily amount to peaceful settlement”). Cf. R. Bartels, ‘From *jus in bello* to *jus post bellum*: when do non-international armed conflicts end?’, in C. Stahn, J. S. Easterday, and J. Iverson, *Jus Post Bellum: Mapping the Normative Foundations* (Oxford: OUP, 2014), p. 303.

²⁴ See, e.g., ICTY, *Prosecutor v. Tadić*, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, IT-94-I-AR72, 2 October 1995 (“*Tadić* Jurisdiction Decision”), para. 70; Limaj TJ, para. 84; Lubanga TJ, para. 533; SCSL, *Prosecutor v. Brima et al.*, Judgment, SCSL-04-16-T, 20 June 2007 (“*Brima* TJ”), para. 245. See further ICTY, *Prosecutor v. Gotovina et al.*, Judgment (Vol. II), IT-06-90-T, 15 April 2011 (“*Gotovina* TJ”) para. 1694.

²⁵ ICRC, *Commentary on the First Geneva Convention* (Geneva/Cambridge: ICRC/CUP, 2016) (“ICRC, *Commentary on GCI* (2016)”), para. 489. See also S. Sivakumaran, *The Law of Non-International Armed Conflict* (Oxford: OUP, 2012) (“Sivakumaran”), pp. 253-254.

²⁶ ICRC, *Commentary on GCI* (2016), para. 494. See also ICRC *Challenges Report*, pp. 10-11.

²⁷ ICRC, *Commentary on GCI* (2016), para. 491.

²⁸ ICRC, *Commentary on GCI* (2016), para. 491. See also ICRC *Challenges Report*, p. 11.

²⁹ See e.g. *Brima* TJ, paras. 251-253.

³⁰ ICTY, *Prosecutor v. Delalić et al.*, Judgment, IT-96-21-T, 16 November 1998 (“*Delalić* TJ”), paras. 226-227 (*mutatis mutandis*).

shift from a configuration adapted to one military task (such as maintaining State control) to another (such as an insurgency or counter-coup). What matters is that the party to the conflict continues to exhibit characteristics consistent with its capability and resolve to maintain the hostilities, and that it actually does so,³¹ such that the test for establishing the conclusion of a non-international armed conflict is not met. These requirements are met on the facts of this case.

13. For these reasons, and as further explained below, it is submitted that the law of non-international armed conflict applied at all times material to the crimes charged, without interruption. While the International Commission of Inquiry on the Central African Republic reached a different view in 2014, this is not supported by the current evidence and applicable legal framework.³² In particular, the Commission: (1) wrongly assumed that the ouster of BOZIZE from Bangui necessarily implied his complete defeat and the dissolution of the party to the armed conflict which he led; (2) failed to consider the continuing activities of BOZIZE and his supporters (including but not limited to certain elements of the FACA) in re-grouping and re-arming with a view to continuing the hostilities, and their role in the formation of the Anti-Balaka, and/or; (3) attributed too much weight to the temporary reduction in the intensity of hostilities after March 2013. In addition, the Commission's view does not bind the Court.³³

a) Parties to the conflict

aa) Seleka

14. The Seleka emerged in mid-to-late 2012 as a coalition of several previously uncoordinated political factions and armed groups. Three key groups in the coalition were: (1) the *Union des Forces Démocratiques pour le Rassemblement* (“UFDR”), led by Michel DJOTODIA;³⁴ (2) the *Convention des Patriotes pour la Justice et la Paix*-

³¹ See N. Melzer, *International Humanitarian Law: a Comprehensive Introduction* (Geneva; ICRC, 2016), p. 71; ICRC, *Commentary on GCI* (2016), para. 491; ICRC *Challenges Report*, p. 11.

³² See **UNCOI Report: CAR-OTP-2001-7017** at 7033, 7050-7052, paras. 39, 93-97. Notably, the Commission itself acknowledged that “future analyses, based on more detailed accounts of all of the many incidents that occurred in this timeframe, might lead to a different conclusion.” **UNCOI Report: CAR-OTP-2001-7017** at 7051-7052, para. 96.

³³ Cf. e.g. ICC-01/14-01/18-403-Red-Corr (“*Yekatom and Ngaïssona* Confirmation Decision”), para. 72 (for the purpose of that case, which concerns alleged crimes in late 2013 and 2014, finding that a non-international conflict “was ongoing in the territory of the CAR from September 2013”), with **UNCOI Report: CAR-OTP-2001-7017** at 7033, para. 39.

³⁴ See **HRW Report: CAR-OTP-2001-1870** at 1907, 1911; **P-0349: CAR-OTP-2074-0041-R01** at 0044-0045, para. 20-21 (Fr); **P-0291: CAR-OTP-2024-0036-R01** at 0044-0045, para. 51 (Fr); **P-0291: CAR-OTP-2034-0104-**

Fondamentale (“CPJP-F”), led by Nourredine ADAM;³⁵ and (3) the *Convention Patriotique pour le Salut du Kodro* (“CPSK”), led by Mohamed Moussa DHAFANE.³⁶ The Seleka were also supported by Chadian and Sudanese mercenaries.³⁷

15. After the Seleka took over the CAR government in March 2013, the above-mentioned leaders assumed Government posts. Specifically, DJOTODIA became the President of the CAR while ADAM and DHAFANE became government ministers.³⁸ Other senior Seleka commanders were assigned high military ranks and put in charge of different bases that the Seleka set up throughout Bangui and elsewhere in the CAR.³⁹
16. Faced with international criticism, the Government announced the disbandment of the Seleka on 12 September 2013.⁴⁰ However, the Seleka remained active in the CAR.⁴¹ Indeed, the senior Seleka commanders continued to train their elements,⁴² exercise their military power against the CAR population and pro-Bozize forces,⁴³ and commit similar crimes in the CAR.⁴⁴ The Seleka left Bangui after President DJOTODIA stepped down from his position on 10 January 2014.⁴⁵

R01, at 0113, para. 51 (Eng); **FIDH Report**: CAR-OTP-2001-2890 at 2898. *See also* **Libreville Agreement**: CAR-OTP-2101-3081; **Seleka declaration**: CAR-OTP-2088-2868 at 2869.

³⁵ **P-0291**: CAR-OTP-2024-0036-R01 at 0044-0045, para. 51 (Fr); **FIDH Report**: CAR-OTP-2001-2890 at 2897-2898; **P-2463**: CAR-OTP-2118-2762-R01 at 2777-2778, lns. 520-544. *See also* **Libreville Agreement**: CAR-OTP-2101-3081; **Seleka declaration**: CAR-OTP-2088-2868 at 2869.

³⁶ **IPIS report**: CAR-OTP-2001-5739 at 5753; **UN Mapping Project Report**: CAR-OTP-2055-1987 at 2087; **FIDH Report**: CAR-OTP-2001-2769 at 2833. *See also* **Libreville Agreement**: CAR-OTP-2101-3081; **Seleka declaration**: CAR-OTP-2088-2868 at 2869; **P-0291**: CAR-OTP-2118-2762-R01 at 0113, para. 51 (Eng).

³⁷ **P-1420**: CAR-OTP-2130-1827-R01 at 1830, para. 15 (Fr); **P-0881**: CAR-OTP-2130-5262-R01 at 5268, para. 32 (Fr).

³⁸ **P-0291**: CAR-OTP-2024-0036-R01 at 0052-0053, paras. 101-106 (Fr); **P-2328**: CAR-OTP-2099-0165-R01 at 0216, para. 266 (Fr); **P-0435**: CAR-OTP-2017-0036-R01 at 0044, para. 46 (Eng).

³⁹ *See infra*, para. 23.

⁴⁰ **CAR Presidential Decree 13.334**: CAR-OTP-2005-0347.

⁴¹ **P-0435**: CAR-OTP-2017-0036-R01 at 0062, para. 152; **ICG Policy Briefing**: CAR-OTP-2001-2123 at 2125. *See also* **IPIS Report**: CAR-OTP-2001-5739 at 5761.

⁴² **P-1967**: CAR-OTP-2069-0498-R01 at 0508, para. 47 (Eng); **P-2573**: CAR-OTP-2119-0532-R01 at 0550-0551, paras. 78-82 (Eng); **P-2563**: CAR-OTP-2118-2784-R01 at 2786, lns. 45-58.

⁴³ *See, e.g.*, **P-0342**: CAR-OTP-2116-0216-R01 at 0254, para. 230 (Eng); **P-1339**: CAR-OTP-2041-0741-R01 at 0752, paras. 77, 79 (Eng); **P-2251**: CAR-OTP-2093-0045-R01 at 0057, para. 78, at 0058, para. 84-85, at 0060, paras. 98-99, at 0061, para. 104 (Eng); **P-0966**: ICC-01/14-01/18-T-118-CONF-ENG ET, p. 61, lns. 13-14; **OHCHR Report**: CAR-OTP-2001-0391 at 0394, paras. 7-12.

⁴⁴ *See infra*, para. 72-75; **ICG Policy Briefing**: CAR-OTP-2001-2123 at 2125.

⁴⁵ *See supra*, para. 8. *See also* **OHCHR Report**: CAR-OTP-2001-0391 at 0395, para. 13 (reporting that the activities of the “ex-Seleka” started to calm down after the reinforcement of international forces took place in December 2013).

bb) Pro-BOZIZE Forces

17. The other party to the conflict may be described as the pro-BOZIZE forces, which initially included the FACA and Presidential Guards (until 24 March 2013, while BOZIZE remained in power in Bangui). From 24 March 2013 onwards, the pro-BOZIZE forces included elements of the FACA and Presidential Guards⁴⁶ and, increasingly as the year progressed, pre-existing and new self-defence groups that were armed, organised and instructed by the pro-BOZIZE forces.⁴⁷ Among these pre-existing self-defence groups were the “Anti-Zaraguinas,”⁴⁸ which had formed prior to the emergence of the Seleka, as well as the youth groups COCORA and COAC, which were formed and armed by associates of BOZIZE prior to the Seleka’s takeover of Bangui, with the aim of resisting the Seleka’s advance.⁴⁹ All these persons and groups ultimately came to be known as the “Anti-Balaka.”⁵⁰ Anti-Balaka stands for “anti-machete” in the Sango language or “anti-bal-AK47,” meaning against the bullets of an AK-47.⁵¹
18. Leaders of the pro-BOZIZE forces included François BOZIZE, Levy YAKETE, Patrice-Edouard NGAISSONA, Bernard MOKOM, Maxime MOKOM, and Olivier KOUDEMON.⁵² They prepared a response against the Seleka offensive and coordinated to remove the Seleka’s grip on power throughout the relevant timeframe.⁵³

⁴⁶ **P-1420:** CAR-OTP-2130-1827-R01 at 1841-1842, paras. 75-78 (Fr).

⁴⁷ *See infra*, paras. 31-43; **P-2232:** CAR-OTP-2107-6147-R01 at 6155-6156, 6158-6159, 6162-6163, 6170-6171, paras. 51-56; 63-73, 86-90, 165-170 (Fr); **P-2328:** CAR-OTP-2099-0165-R01 at 0173-0177, 0179-0180, 0187, paras. 45, 48-49, 55, 60-61, 75, 110 (Fr).

⁴⁸ **P-2232:** CAR-OTP-2090-0561-R01 at 0569, para. 54.

⁴⁹ **P-2232:** CAR-OTP-2107-6459-R01 at 6462-6463, paras. 7-10 (Fr); **Media article:** CAR-OTP-2074-0411 at 0420; **Radio:** CAR-OTP-2000-0630, from [00:25:07] to [00:27:38] and its transcript and translation CAR-OTP-2060-0623 and CAR-OTP-2060-0678, at 0689, Ins. 387-402 (in a December 2012 radio address, President BOZIZE introduces a young associate, who says he will install COCORA in all provinces in the CAR because they were surrounded by traitors - “*des Judas*” - and the foreigners). *See also* **Report of the Panel of Experts:** CAR-OTP-2001-6251 at 6293 (Fr), para. 3; **DJOTODIA speech:** CAR-OTP-2042-0747, from [00:00:00] to [00:07:30] (DJOTODIA says BOZIZE distributed 2,000 weapons before the arrival of the Seleka).

⁵⁰ **P-2232:** CAR-OTP-2107-6147-R01 at 6155-6156, paras. 51, 53 (Fr).

⁵¹ **P-0966:** CAR-OTP-2102-0078-R01 at 0083-0084, para. 22 (Fr); **FIDH Report:** CAR-OTP-2001-2769 at 2825.

⁵² **P-0291:** CAR-OTP-2024-0036-R01 at 0044, 0054-0055, paras. 48, 116, 118 (Fr); **P-0342:** CAR-OTP-2127-7319-R01, at 7373, para. 319 (Fr); **P-1297:** CAR-OTP-2107-1354-R01 at 1369, para. 85 (Fr); **P-2232:** CAR-OTP-2107-6147-R01 at 6161, 6164-6166, paras. 78-79, 100, 104-109 (Fr); **P-0884:** CAR-OTP-2080-1678-R01 at 1707, Ins. 985-1012 (Fr).

⁵³ *See infra*, paras. 30-49.

b) The parties to the conflict were sufficiently organised

aa) The Seleka were sufficiently organised

19. At all material times, and indeed even before they succeeded in ousting BOZIZE and most of the pro-BOZIZE forces from Bangui, the Seleka coalition was sufficiently organised to be treated as a non-State organised armed group.⁵⁴ As discussed further below, this is demonstrated by the following factors: (1) the Seleka had the capacity to conduct military operations, most notably the 24 March 2013 capture of Bangui; (2) the Seleka led the CAR government for most of the relevant period; (3) the Seleka controlled important territory in the CAR, including its capital city; and (4) the Seleka had significant logistical capacity, including the ability not only to support their forces in military operations but also to recruit new members.

(i) The Seleka were able to conduct military operations

20. Although the Seleka did not have a strictly centralised chain of command,⁵⁵ they used military ranks to organise their members⁵⁶ and coordinated their various sub-sections in an effective way that allowed them to achieve significant military victories.⁵⁷ Most notably, the Seleka coalition's command structure was sufficiently organised and coordinated to launch a successful military assault on Bangui in March 2013. By this point, the Seleka had accumulated a substantial stock of military-grade vehicles, weaponry, and other equipment.⁵⁸

⁵⁴ On the factors relevant to this analysis, *see, e.g.*, Confirmation Decision, para. 54; *Ongwen* TJ, para. 2865; *Ntaganda* TJ, para. 704; *Lubanga* TJ, para. 537; *Boškoski* TJ, paras. 194-205; *Haradinaj* TJ, para. 60; *Limaj* TJ, para. 90. *See also* Akande, D., 'Classification of Armed Conflicts: Relevant Legal Concepts,' in Wilmshurst, E. (ed.), *International Law and the Classification of Conflicts* (Oxford: OUP, 2012), p. 52; Sivakumaran, p. 170 ('[T]he threshold is not all that high.');

Limaj TJ, para. 89; *Boškoski* TJ, paras. 176, 194.
⁵⁵ Authority and control in the Seleka were influenced by factors such as: i) ethnic original/ tribal membership, and ii) respect and legitimacy derived from an individual's history within the Seleka or its initial component groups. *See, e.g.*, **P-0787**: CAR-OTP-2130-0893-R01 at 0915, paras. 93-94 (Fr); **FIDH Report**: CAR-OTP-2001-2890 at 2903, 2905; **P-0435**: CAR-OTP-2104-0954-R01 at 0979, para. 134 (Fr); **P-1167**: CAR-OTP-2094-0002-R01 at 0007-0008, paras. 30, 42 (Eng).

⁵⁶ *See, e.g.*, **P-1167**: CAR-OTP-2127-7671-R01 at 7677, para. 29 (Fr); **P-0881**: CAR-OTP-2130-5262-R01 at 5268, para. 32 (Fr).

⁵⁷ **P-2563**, CAR-OTP-2118-2807-R01 at 2810-2820, Ins. 87-428 (referring to division in sections and companies as far back as late 2012 in Ndele).

⁵⁸ **P-1263**: CAR-OTP-2054-0616-R01 at 0620-0621, 0626, paras. 17, 21, 53; **P-0342**: CAR-OTP-2012-0039-R01 at 0045, para. 37; **P-0881**: CAR-OTP-2032-0682-R01 at 0687-0688, para. 32 (Eng); **P-2105**: CAR-OTP-2078-0003-R01 at 0009, 0010, paras. 41-42 (Fr); **P-0510**: CAR-OTP-2017-0835-R01 at 0838, paras. 14-15 (Eng).

21. The March 2013 takeover of Bangui was carefully planned by senior Seleka commanders, including DJOTODIA⁵⁹ and ADAM,⁶⁰ who met together to design the operation.⁶¹ These senior Seleka commanders provided heavy weaponry,⁶² passed down orders to their troops in advance of the operation,⁶³ and communicated via satellite during the assault.⁶⁴ Ultimately, the Seleka's successful coordination of multiple units under multiple commanders⁶⁵ led them to military success against both the CAR national defence forces (the FACA) and the multi-lateral and national military contingents fighting to defend Bangui and preserve the ceasefire terms.⁶⁶

(ii) The Seleka controlled the CAR government for most of 2013

22. After taking over Bangui in March 2013, the Seleka set up a new *de facto* transitional government under DJOTODIA. The DJOTODIA-led government appointed Seleka members to key government posts through official decrees.⁶⁷ DJOTODIA also issued a decree creating a National Security Council,⁶⁸ whose members included ADAM, which met weekly to discuss national and local security matters.⁶⁹ DJOTODIA, ADAM, and other Seleka commanders also met on an *ad hoc* basis when urgent matters arose.⁷⁰
23. Furthermore, after taking over the CAR government, the Seleka established various bases, each headed by a senior Seleka commander. Two key Seleka bases were 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*

⁵⁹ See, e.g., **P-2563**, CAR-OTP-2118-2833-R01 at 2836-2838, 2842, Ins. 85-87, 132-143, 302-309.

⁶⁰ **P-2563**, CAR-OTP-2118-2833-R01 at 2836-2838, Ins. 85-87, 132-143,

⁶¹ **P-1167**: CAR-OTP-2094-0002-R01 at 0006, paras. 27-29; **P-2105**: CAR-OTP-2078-0003-R01 at 0008, paras. 33 (Fr); **P-2563**, CAR-OTP-2118-2807-R01 at 2821, 2823-2827, Ins. 474-476, 521-686, esp. Ins. 658-686.

⁶² **P-2105**: CAR-OTP-2078-0003-R01 at 0009, 0010, paras. 41-42 (Fr); **P-2563**, CAR-OTP-2118-2807-R01 at 2826, Ins. 636-638 and 2829, Ins. 725-732.

⁶³ **P-1167**: CAR-OTP-2094-0002-R01 at 0006, paras. 27-29; **P-2563**, CAR-OTP-2118-2807-R01 at 2825, Ins. 589-615; **P-2563**, CAR-OTP-2118-2833-R01 at 2844, Ins. 357-363.

⁶⁴ **P-1167**: CAR-OTP-2094-0002-R01 at 0007, para. 35 (Eng); **P-2105**: CAR-OTP-2078-0003-R01 at 0009-0010, paras. 38, 45 (Fr); **P-0342**: CAR-OTP-2012-0039-R01 at 0045, para. 37; **P-2563**, CAR-OTP-2118-2807-R01 at 2829-2830, Ins. 734-796.

⁶⁵ **P-1167**: CAR-OTP-2094-0002-R01 at 0007-0008, paras. 31-41 (Eng); **P-2105**: CAR-OTP-2078-0003-R01 at 0007-0008, paras. 24-33 (Fr); **P-2563**, CAR-OTP-2118-2807-R01 at 2811-2827, Ins. 124-126, 343-344, 429-439, 589-607.

⁶⁶ **P-1167**: CAR-OTP-2127-7671-R01 at 7677, para. 33 (Fr); **P-2105**: CAR-OTP-2078-0003-R01 at 0008-0009, para. 31-37 (Fr); **P-2563**, CAR-OTP-2118-9169-R01 at 9174, Ins. 140-145.

⁶⁷ **CAR Presidential Decrees 13.001 – 13.009**: CAR-OTP-2004-1597 at 1605-1607.

⁶⁸ **Presidential Decree 13.185**: CAR-OTP-2005-0380.

⁶⁹ **P-1164**: CAR-OTP-2130-1767-R01 at 1796, para. 185 (Fr).

⁷⁰ See, e.g., **P-0435**: CAR-OTP-2017-0036-R01 at 0046, para. 60, at 0061, para. 147.

Démocratiques (Extraordinary Committee for the Defence of Democratic Achievements, “CEDAD”).⁷¹

24. The Seleka commanders in their various bases engaged in a system of lateral coordination and cooperation, in order to achieve the Seleka’s common goal of maintaining power. Of particular relevance to this case, these Seleka commanders—including **SAID**—collaborated to arrest suspected BOZIZE supporters and transfer them between the Seleka’s numerous detention facilities.⁷² Prisoners transferred in this way included, for example: (i) the victims of the flyers incident who were transferred between Camp Beal, Camp de Roux, and the OCRB;⁷³ (ii) [REDACTED] victims of the Seleka’s operation in Boy Rabe in August 2013, who were transferred between Camp de Roux and the OCRB [REDACTED];⁷⁴ and (iii) a number of victims who were transferred between the *Sapeurs Pompiers* base and the OCRB, [REDACTED].⁷⁵ [REDACTED].⁷⁶ [REDACTED].⁷⁷

⁷¹ Other bases included: Camp BSS, headed by General ALKHATIM (see **P-1420**: CAR-OTP-2130-1827-R01 at 1839-1840, paras. 60-61(Fr); **P-1004**: CAR-OTP-2043-0536-R01 at 0539, para. 20; **P-2563**: CAR-OTP-2118-3114-R01 at 3127, lns. 414-427; **P-1167**: CAR-OTP-2094-0002-R01 at 0019, 0030, paras. 107, 173); *Section de Recherches et d’Investigations / Section d’Enquête de Recherche et de Documentation* Section for Research and Investigation / Investigation Section, Research and Documentation (“SRI”), headed by Abdelkarim Moussa (see **P-1420**: CAR-OTP-2040-0811-R01 at 0816-0817, paras. 28-29 (Eng); **P-1004**: CAR-OTP-2043-0536-R01 at 0539, para.19 (Eng)); *Camp de Roux*, commanded by DJOTODIA (see **P-0349**: CAR-OTP-2075-0812-R01 at 0820, para. 42; **P-1967**: CAR-OTP-2069-0498-R01 at 0518, para. 94; **Annex 10**: CAR-OTP-2069-0611); Camp Kassai, where Abdoulaye HISSENE was stationed (see **P-1289**: CAR-OTP-2127-7632-R01 at 7637, para. 23 (Fr); **P-1737**: CAR-OTP-2055-0137-R01 at 0151, paras. 77-78 (Eng); **P-2328**: CAR-OTP-2099-0165-R01 at 0220, para. 286 (Fr)); *Sapeurs-Pompiers*, headed by a Sudanese General, Moussa ASSIMEH (see **P-2563**, CAR-OTP-2118-2807-R01 at 2811, lns. 115-134; **P-1762**: CAR-OTP-2130-2147-R01 at 2154-2155, paras. 31-38 (Fr); **P-1420**: CAR-OTP-2130-1827-R01 at 1846, para. 101 (Fr) **P-2328**: CAR-OTP-2099-0165-R01 at 0222, para. 308 (Fr)); *Maison Blanche*, headed by General MAKAIR (see **P-2573**: CAR-OTP-2119-0532-R01 at 0540-0541, para. 39); PK9 checkpoint, stationed by Colonels KADER TOM ALKANTO and Oumarou GARBA (see **P-2573**: CAR-OTP-2119-0532-R01 at 0535-0538, paras. 19-20, 25, 29-30 (Eng); **P-0529**: CAR-OTP-2051-0159-R01 at 0164, para. 25 (Eng)).

⁷² See Confirmation Decision (Operative Part), paras. 29.c, 29.e, 29.h-29.i, 29.o-q (transfers of victims between the OCRB and other Seleka camps, such as *Camp de Roux* and *Sapeurs-Pompiers*); **Radio Communiqué**: CAR-OTP-2034-2344 at 2345; **P-2069**: CAR-OTP-2091-2198-R01 at 2200, lns. 50-76 (Fr).

⁷³ See *infra*, paras. 172-179.

⁷⁴ See *infra*, paras. 65-69; **P-2179**: CAR-OTP-2088-2250-R01 at 2255-2274, paras. 25-120 (Eng); **P-0547**: CAR-OTP-2025-0566-R01 at 0572-0573, paras. 32-38, at 0578-0580, 0583, paras. 86, 99, 116 (stating that he was arrested by General Bachar, brought to Camp de Roux from the OCRB by Commander YAYAH and Captain TAHIR, and then returned to the OCRB by Captain TAHIR).

⁷⁵ See *infra*, paras. 180-187, 243-251; **P-1429**: CAR-OTP-2049-0166-R01 at 0173-0174, paras. 41-48 (Eng); **P-1432**: CAR-OTP-2073-0743-R01 at 0748-0749, paras. 29-30, 39 (Eng); **P-1762**: CAR-OTP-2073-0568-R01 at 0577-0578, paras. 52-57 (Eng). See also **P-0547**: CAR-OTP-2025-0566-R01 at 0577, para. 73.

⁷⁶ **P-1429**: CAR-OTP-2049-0166-R01 at 0173-0174, paras. 41-48 (Eng); **P-0787**: CAR-OTP-2036-0410-R01 at 0427-0428, paras. 79-87 (Eng).

⁷⁷ **P-1429**: CAR-OTP-2049-0166-R01 at 0174, para. 48 (Eng).

25. While the Seleka coalition was made up of people from diverse factions, nationalities, and ethnicities, the Seleka demonstrated the ability to carry out large operations together during their period in power. For example, as detailed below,⁷⁸ Seleka commanders from all parts of the coalition jointly participated in two large-scale operations in the Boy Rabe neighbourhood of Bangui. During one of these operations, [REDACTED], three leaders of the groups forming the Seleka coalition (DJOTODIA, ADAM, and DHAFFANE) were jointly looting a compound of a pro-BOZIZE individual.⁷⁹

(iii) The Seleka controlled important territory in the CAR, including its capital city

26. From late 2012, the Seleka coalition began seizing control of towns in the CAR.⁸⁰ By 24 March 2013, they had taken control of Bangui as well as other critical CAR territory.⁸¹
27. During the charged period, the Seleka continued to control important territory in the CAR, including Bangui, the seat of government and largest city in the country.⁸² The Seleka set up a system of check-points to monitor and control the movement of people within the territory they controlled.⁸³ They divided the country into military regions and put different Seleka Generals in charge of different regions, including Kaga-Bandoro, Bambari, and Paoua.⁸⁴

(iv) The Seleka had substantial logistical capacity, including the ability to recruit new members

28. During the charged period, the Seleka had substantial logistical capacity. Of particular note, during the relevant period, the Seleka demonstrated the ability to recruit a large number of new members. Specifically, at the time it took over Bangui, the Seleka had an estimated 5,000 members.⁸⁵ By late 2013, the Seleka reportedly had 15,000-20,000 members.⁸⁶ The Seleka also took steps to train and organise their members, including

⁷⁸ See *infra*, paras. 61-69, 89.

⁷⁹ **P-0119:** CAR-OTP-2032-0753-R01 at 0772, paras. 131-133 (Eng).

⁸⁰ **P-1263:** CAR-OTP-2054-0616-R01 at 0620, paras. 16-20 (Eng).

⁸¹ **P-0342:** CAR-OTP-2116-0216-R01 at 0219-0229, paras. 18-69, at 0252-0253, paras. 216-217, 226 (Eng); **HRW Report:** CAR-OTP-2001-1870 at 1883, 1888.

⁸² **P-2328:** CAR-OTP-2099-0165-R01 at 0190, para. 128 (Fr); **FIDH Report:** CAR-OTP-2001-2890 at 2903.

⁸³ **P-2328:** CAR-OTP-2099-0165-R01 at 0222, para. 307 (Fr); **P-0834:** CAR-OTP-2048-0310-R01 at 0323-0324, paras. 87-95 (Eng); **P-1420:** CAR-OTP-2130-1827-R01 at 1837, paras. 45-46 (Fr); **CAR Document:** CAR-OTP-2034-2207.

⁸⁴ **P-2328:** CAR-OTP-2099-0165-R01 at 0216-0217, para. 267 (Fr).

⁸⁵ **FIDH Report:** CAR-OTP-2001-2890 at 2905; see also **P-0291:** CAR-OTP-2034-0104-R01 at 0116, para. 69 (Eng); CAR-OTP-2024-0036-R01 at 0047, para. 69 (Fr); **P-1967:** CAR-OTP-2069-0498-R01 at 0508, para. 47 (Eng) (estimating that the Seleka had 1,500-1,800 Seleka elements posted at just one of their many bases—Camp de Roux—at the outset of the Seleka regime).

⁸⁶ **UN SG Report:** CAR-OTP-2001-1102 at 1103, para. 5; **FIDH Report:** CAR-OTP-2001-2890 at 2905.

from before their advance on Bangui,⁸⁷ soon after their takeover of Bangui,⁸⁸ up until right before they were attacked by the Anti-Balaka on 5 December 2013.⁸⁹

29. In addition, the Seleka successfully conducted other logistical operations. For example, they established a system of food distribution across the bases;⁹⁰ arranged uniforms for their elements, including the Seleka posted at the OCRB;⁹¹ and issued ID cards to their personnel.⁹²

bb) The pro-BOZIZE forces were sufficiently organised

30. For such time as BOZIZE unequivocally held the office of President of CAR, prior to 24 March 2013, he commanded the State armed forces: the FACA. These forces, as such, enjoyed a legal presumption of sufficient organisation.⁹³
31. Once BOZIZE was ousted from Bangui on 24 March 2013, certain elements of the FACA remained personally loyal to him, and withdrew to locations where they could regroup. For example, FACA elements under the command of KOUDEMON—one of BOZIZE’s subordinates—withdrew to a strategic position outside CAR territory, Bertoua in Cameroon, from which it was possible to interdict *Route Nationale* 3 (supplying Bangui).⁹⁴ Other FACA elements and BOZIZE loyalists withdrew to Zongo in the DRC, across the river from Bangui.⁹⁵ Whatever the precise legal classification of these FACA elements,⁹⁶ they represented part of the *same forces* that had been

⁸⁷ **P-1004**: CAR-OTP-2043-0536-R01 at 0539, para. 22 (Eng).

⁸⁸ **P-1734**: CAR-OTP-2055-0137-R01 at 0140, 0142, paras. 18, 28 (Eng).

⁸⁹ **P-1967**: CAR-OTP-2069-0498-R01 at 0508, para. 47 (Eng); **P-2573**: CAR-OTP-2119-0532-R01 at 0550-0551, paras. 78-82 (Eng); **P-2563**: CAR-OTP-2118-2784-R01 at 2787, lns. 45-58.

⁹⁰ **P-1420**: CAR-OTP-2130-1827-R01 at 1842-1843, paras. 79-82, 86 (Fr); **P-1167**: CAR-OTP-2127-7671-R01 at 7687, para. 87 (Fr); **P-1967**: CAR-OTP-2069-0498-R01 at 0514, para. 75 (Eng); **P-2504**: CAR-OTP-2111-0177-R01 at 0182-0183, paras. 35-36.

⁹¹ **P-1167**: CAR-OTP-2127-7671-R01 at 7687, para. 88 (Fr); **P-1004**: CAR-OTP-2043-0536-R01 at 0541, para. 35 (Eng); **P-2087**: CAR-OTP-2130-2320-R01 at 2326, para. 31 (Fr).

⁹² **P-1967**: CAR-OTP-2118-6365-R01 at 6373, para. 33 (Fr); **Annex 5**: CAR-OTP-2069-0604; **P-1167**: CAR-OTP-2127-7671-R01 at 7681, para. 52 (Fr); **Annex A**: CAR-OTP-2094-1899-R01 and CAR-OTP-2094-1898; **P-2105**: CAR-OTP-2083-0003-R01 at 0020, para. 94, at 0025, para. 143 (Eng); **Annex IV**: CAR-OTP-2081-0066; **P-1737**: CAR-OTP-2055-0137-R01 at 0145-0146, 0154, paras. 48-50; **Annex 2**: CAR-OTP-2055-0194 and CAR-OTP-2055-0195; **P-1967**: CAR-OTP-2069-0498-R01 at 0505 para. 33 (Eng); **Annex 5**: CAR-OTP-2069-0604.

⁹³ See e.g. *Haradinaj* TJ, para. 60. See also Sivakumaran, p. 170.

⁹⁴ **B2 Report of 6 Jul. 2013**: CAR-OTP-2075-0908; **B2 Report of 1 Aug. 2013**: CAR-OTP-2075-0933.

⁹⁵ **P-2232**: CAR-OTP-2090-0561-R01 at 0566-0567, paras. 37, 43 (Eng); **P-2328**: CAR-OTP-2099-0165-R01 at 0179, para. 73 (Fr); **P-1339**: CAR-OTP-2041-0741-R01 at 0745, paras. 29-31, at 0742, para. 42 (Eng); CAR-OTP-2102-0105-R01 at 0111-0112, paras. 29-31, at 0113-0114, para. 42 (Fr); **Letter from CAR to DRC**: CAR-OTP-2034-4641; **B2 Report of 5 July 2013**: CAR-OTP-2075-0906; **MoPS**: CAR-OTP-2034-3552 at 3553.

⁹⁶ M. Schmitt, ‘The status of opposition fighters in a non-international armed conflict,’ [2012] 88 *International Legal Studies* 119 (“Schmitt”), pp. 124-126 (noting State armed forces may be transformed either into dissident

subject to BOZIZE's control before he was ousted.⁹⁷ The same applies to other persons and groups loyal to BOZIZE, who were not part of the FACA. Consequently, while the pro-BOZIZE forces in the immediate aftermath of 24 March 2013 were diminished in their size and capabilities, they continued to comprise the *same party* to the non-international armed conflict as before, a party opposed to the Seleka and loyal to BOZIZE and his regime.

32. Subsequently, certain elements of the FACA loyal to BOZIZE, and other persons and groups loyal to BOZIZE, were used to support, train, and consolidate other self-defence groups in the CAR into the Anti-Balaka, in which BOZIZE and his allies continued to play a leading role.⁹⁸ While the Anti-Balaka was organised as an insurgency rather than a security force, it provided considerable additional combat power to the pro-BOZIZE forces. The Anti-Balaka was in this sense a new armed force, yet the evidence demonstrates that the influence of BOZIZE and his supporters over its formation was such that it was part of the *same* pre-existing party to the non-international armed conflict, opposed to the Seleka. Within six months of BOZIZE's ouster, the Anti-Balaka was carrying out coordinated attacks and escalating attacks against the Seleka (and Muslim members of the civilian population) in western CAR, leading to a 5 December 2013 assault on Bangui itself.⁹⁹
33. In these circumstances, it would be wholly artificial to sever the link between the hostilities leading up to March 2013 from those occurring thereafter, such that the law of non-international armed conflict ceased to apply for the intervening weeks.¹⁰⁰ Such an approach would create a lacuna in protection for the victims of the charged

armed forces or non-State organised armed groups if there is a change in State power, but that the precise test for distinguishing the two may be "unresolved as a matter of law").

⁹⁷ See also *Delalić* TJ, para. 231 (considering, in circumstances "characterised by the background of previous State boundaries and the creation of new ones," that the appropriate question for the purpose of conflict classification "is one of continuity of control of particular forces").

⁹⁸ See also e.g. *Yekatom and Ngaïssona* Confirmation Decision, paras. 62, 111.

⁹⁹ See *infra*, paras. 40-41, 48-49.

¹⁰⁰ See also *Delalić* TJ, para. 234 (in circumstances where it was satisfied that "the controlling force" behind the newly constituted VRS was the same as the JNA, concluding that "[i]t would be wholly artificial to sever the [previous] period [...] from the period thereafter in considering the nature of the conflict and applying international humanitarian law"). See further ICRC, *Commentary on GCI* (2016), para. 487 ("It is necessary to rely on the facts when assessing whether a non-international armed conflict has come to an end", and this approach "is also in line with modern humanitarian law more generally, for whose applicability formal requirements are not decisive").

crimes. The conflict continued because the Seleka did not consider that the takeover of Bangui had eliminated the threat from BOZIZE and his supporters.

34. In any event, and in addition to their continuity of leadership, specific factors demonstrate that the pro-BOZIZE forces continued to exhibit sufficient organisation even after 24 March 2013,¹⁰¹ including: maintenance of an effective command structure, adapted to the circumstances; the ability to carry out military operations; and the development of an effective logistical capacity, including to recruit new fighters.

(i) The pro-BOZIZE forces maintained an effective command structure, adapted to their circumstances

35. Prior to 24 March 2013, the FACA (subordinated *de jure* to BOZIZE) constituted the armed force of the CAR, and was organised along conventional military lines.
36. As noted above, following his ouster from Bangui on 24 March 2013, BOZIZE and his allies organised a new force—the Anti-Balaka—to continue the hostilities against the Seleka, which was comprised of former FACA and Presidential Guard members, as well as pre-existing¹⁰² and new self-defence groups.¹⁰³ Some of these constituent groups were organised in an effective way adapted to their circumstances, involving sections and companies, a command structure, and reporting lines.¹⁰⁴ Members were trained, including by former FACA.¹⁰⁵
37. For example, pro-BOZIZE forces organised the various self-defence groups who had gathered in Gobere (near Bossangoa).¹⁰⁶ In this location, (i) the men were organised into

¹⁰¹ See also e.g. *Boškoski* TJ, para. 290 (“the effect produced by the NLA [...] and the level of military success it had achieved [...], together with its ability to speak with one voice, and to recruit and arm its members, are sufficient in the particular circumstances being considered, to demonstrate that the NLA had developed a level of organisation and coordination”).

¹⁰² **P-2328**: CAR-OTP-2099-0165-R01 at 0172-0173, paras. 39-43 (Fr); **P-0291**: CAR-OTP-2024-0036-R01 at 0056, paras. 128-130 (Fr); **P-2232**: CAR-OTP-2107-6459-R01 at 6476, paras. 78-79 (Fr).

¹⁰³ **P-0966**: CAR-OTP-2031-0241-R01 at 0245-0246, paras. 23-25, 28 (Eng); **FIDH Report**: CAR-OTP-2001-2769 at 2825-2827; **IPIS Report**: CAR-OTP-2001-5739 at 5782. See also CAR-OTP-2074-0411 at 0413, 0420.

¹⁰⁴ **P-2328**: CAR-OTP-2099-0165-R01 at 0176-0178, 0183, paras. 60-61, 65-66, 93.

¹⁰⁵ See, e.g., **P-1339**: CAR-OTP-2041-0741-R01 at 0746, para. 37 (Eng); **P-0975**: CAR-OTP-2033-7885-R01 at 7889, paras. 28-29 (Eng); **P-2269**: CAR-OTP-2111-0336-R01 at 0343, para. 53; **P-0966**: ICC-01/14-01/18-T-116-CONF-ENG, p. 25, lns. 5-11.

¹⁰⁶ **P-2232**: CAR-OTP-2090-0561-R01 at 0569-0570, paras. 59-60 (Eng); CAR-OTP-2107-6147-R01 at 6157, paras. 59-60; **P-0966**: CAR-OTP-2031-0241-R01 at 0245-0246, paras. 23-25, 28, 31 (Eng); **P-0975**: CAR-OTP-2033-7885-R01 at 7888-7889, paras. 25-29 (Eng); **P-1339** Annex N: CAR-OTP-2041-0802; **P-1339**, Annex M: CAR-OTP-2041-0783; **P-2105**: CAR-OTP-2046-0603-R01 at 0608, paras. 30-31 (Eng). See also **Video interview of an Anti-Balaka member**: CAR-OTP-2081-1769 and Fr of the transcript at CAR-OTP-2122-2313 at 2316-2318, lns. 68-115 (joined the Anti-Balaka group from June 2013 in Bossangoa).

companies,¹⁰⁷ each containing hundreds of members,¹⁰⁸ which were further divided into sections;¹⁰⁹ (ii) new recruits were registered and assigned to a company;¹¹⁰ (iii) a command structure was set up, with Maxime MOKOM as coordinator of operations;¹¹¹ (iv) recruits received training from former FACA members;¹¹² (v) weapons and ammunition were supplied;¹¹³ (vi) funds were provided;¹¹⁴ and (vii) recruits were provided with fetishes, known as *grisgris*.¹¹⁵

38. Similarly, in another location—Kalangoi, DRC — pro-BOZIZE forces gathered together people who wanted to fight the Seleka.¹¹⁶ They established a military hierarchy whereby (i) the men were organised into sections, each containing 60 members;¹¹⁷ (ii) new members were recruited and assigned to a section;¹¹⁸ (iii) a command structure was set up, with Alfred YEKATOM as the chief, who in turn coordinated closely with Maxime MOKOM;¹¹⁹ (iv) members received training for three months from former FACA members, including YEKATOM;¹²⁰ and (v) members were provided with weapons.¹²¹
39. Email communications between key actors between March and November 2013 show the pro-BOZIZE forces, eventually known as the Anti-Balaka, taking steps to re-

¹⁰⁷ **P-0966:** CAR-OTP-2031-0241-R01 at 0246, para. 29 (Eng).

¹⁰⁸ **P-0966:** CAR-OTP-2031-0241-R01 at 0246, para. 29 (Eng); **P-1339:** CAR-OTP-2041-0802 ([REDACTED]).

¹⁰⁹ **P-0966:** CAR-OTP-2031-0241-R01 at 0246, 0248, para. 39 (Eng); **P-0975:** CAR-OTP-2033-7885-R01 at 7889, para. 29 (Eng).

¹¹⁰ **P-0966:** CAR-OTP-2102-0078-R01 at 0085, 0087, paras. 29, 38 (Fr); **P-2269:** CAR-OTP-2111-0336-R01 at 0343, para. 52 (Eng).

¹¹¹ **P-2232:** CAR-OTP-2090-0561-R01 at 0569-0570, 0573, paras. 58-60, 78 (Eng); **P-0966:** CAR-OTP-2102-0078-R01 at 0086, paras. 33-34 (Fr); **P-0975:** CAR-OTP-2107-1329-R01 at 1334, para. 29 (Fr). *See also* **P-2269:** CAR-OTP-2111-0336-R01 at 0341, paras. 37, at 0342, para. 46, at 0345, para. 68, at 0346, para. 76 (Eng).

¹¹² **P-0975:** CAR-OTP-2033-7885-R01 at 7889, paras. 26-29 (Eng); **P-2269:** CAR-OTP-2111-0336-R01 at 0343, para. 53 (Eng); **P-0966:** ICC-01/14-01/18-T-116-CONF-ENG, p. 25, lns. 5-11.

¹¹³ **P-2269:** CAR-OTP-2111-0336-R01 at 0345, paras. 68-69 (Eng); **P-2232:** CAR-OTP-2090-0561-R01 at 0570-0571, paras. 61-63, 71 (Eng); **P-0966:** CAR-OTP-2031-0241-R01 at 0250, para. 51 (Eng); **P-0966:** ICC-01/14-01/18-T-116-CONF-ENG ET, p. 27, lns. 8-11, p. 36, ln. 12 – p. 38, ln. 8; **P-0966:** ICC-01/14-01/18-T-118-CONF-ENG ET, p. 58, lns. 4-14.

¹¹⁴ **P-2232:** CAR-OTP-2090-0561-R01 at 0570-0573, paras. 63-70, 72 (Eng); **P-2269:** CAR-OTP-2111-0336-R01 at 0350-0351, paras. 108-112 (Eng); **P-0966:** CAR-OTP-2031-0241-R01 at 0253, para. 68 (Eng); **P-0966:** ICC-01/14-01/18-T-117-ENG ET, p. 10, lns. 5-11.

¹¹⁵ **P-0966:** CAR-OTP-2031-0241-R01 at 0246, para. 30 (Eng); **P-2232:** CAR-OTP-2090-0561-R01 at 0570, para. 60 (Eng); **P-0975:** CAR-OTP-2033-7885-R01 at 7889, para. 27 (Eng).

¹¹⁶ **P-1339:** CAR-OTP-2102-0105-R01 at 0112, para. 32 (Fr).

¹¹⁷ **P-1339:** CAR-OTP-2041-0741-R01 at 0750, paras. 63-64 (Eng).

¹¹⁸ **P-1339:** CAR-OTP-2041-0741-R01 at 0746, 0750, paras. 35, 63 (Eng); **P-0884:** CAR-OTP-2072-1479-R01 at 1514-1515, lns. 1271-1314 (Fr/Eng).

¹¹⁹ **P-1339:** CAR-OTP-2102-0105-R01 at 0113-0115, paras. 41-49, at 0117, para. 64 (Fr); **P-2232:** CAR-OTP-2107-6459-R01 at 6469, paras. 43, 45 (Fr). *See also* **Video interview of YEKATOM:** CAR-OTP-2065-0716 and its transcript CAR-OTP-2107-6924 at 6925, lns. 22-27.

¹²⁰ **P-1339:** CAR-OTP-2102-0105-R01 at 0112-0113, paras. 34, 37-39 (Fr).

¹²¹ **P-1339:** CAR-OTP-2041-0741-R01 at 0751, para. 67 (Eng).

organise, resupply, and rearm their forces.¹²² For example, in late May 2013, FACA Captain and Anti-Balaka leader Charles NGREMANGOU¹²³ was in contact with other Anti-Balaka leaders such as Steve YAMBETE¹²⁴ and Eugene NGAIKOSSET,¹²⁵ providing them with requests for military material and intelligence.¹²⁶ On 19 July 2013, NGREMANGOU sent YAMBETE a document titled “*Expressions de Besoins*,” in which NGREMANGOU describes specific military needs for their activities in Bangui and its surrounding areas, including: 1200 men in four battalions throughout Bangui; particular types and quantities of heavy weapons, ammunition and phones; and money for soldiers’ food and health care.¹²⁷

(ii) The pro-BOZIZE forces carried out coordinated military attacks

40. Initially, leading up to the fall of Bangui on 24 March 2013, the FACA was forced onto the defensive in the face of the Seleka’s advance. This does not undermine the organisation implicit in its role as the State armed force of the CAR. To the contrary, each of the myriad engagements which define the course of an armed conflict will usually see at least one of the parties meet with relative disadvantage, without this necessarily implying their complete dissolution.
41. By contrast, and subsequently, the re-organisation of the pro-BOZIZE forces (including certain elements of the FACA remaining loyal to BOZIZE) assisted them to carry out coordinated attacks in the latter half of 2013. Notably, for example, pro-BOZIZE forces launched a rocket at the National Assembly in Bangui, in an attempt to disrupt DJOTODIA’s second inauguration on 18 August 2013.¹²⁸ From September, the Anti-Balaka began progressively to take control of territory outside Bangui, attacking village

¹²² See, e.g., CAR-OTP-2130-3448 (27 March 2013); CAR-OTP-2130-3466 (10 May 2013); CAR-OTP-2126-2619 (29 May 2013); CAR-OTP-2130-3296 (31 July 2013); CAR-OTP-2126-2627 (24 June 2013); CAR-OTP-2084-1046 (14 September 2013); CAR-OTP-2124-0899 (7 October 2013); see also ICC-01/14-01/21-312-Conf, Prosecution’s Fourth Application for Submission of Documents from the Bar Table Pursuant to Article 64(9) and ICC-01/14-01/21-312-Conf-AnxA.

¹²³ P-2232 : CAR-OTP-2100-2569-R01 at 2573, para. 19 (Eng).

¹²⁴ P-2232 : CAR-OTP-2100-2569-R01 at 2571, paras. 7-9, 24 (Eng).

¹²⁵ P-2328: CAR-OTP-2099-0165-R01 at 0172, 0179, paras .39, 71-73 (Fr); P-2232: CAR-OTP-2090-0561-R01 at 0566-0567, paras. 37, 42 (Eng).

¹²⁶ CAR-OTP-2126-2619; CAR-OTP-2126-2620.

¹²⁷ CAR-OTP-2126-2629 (email); CAR-OTP-2126-2630 (attachment); see also CAR-OTP-2126-2634 (email); CAR-OTP-2126-2635 (attachment); CAR-OTP-2126-2646.

¹²⁸ P-1167: CAR-OTP-2127-7671-R01 at 7700, para. 163 (Fr); P-1277: CAR-OTP-2051-0966-R01 at 0971, para. 21 (Eng); B2 Report of 19 August 2013: CAR-OTP-2075-0949. For the date of the inauguration, see Photos: CAR-OTP-2069-2887 through CAR-OTP-2069-3012 (DJOTODIA arriving at the Ledger Hotel to celebrate his inauguration, dated 18 August 2013); Media article: CAR-OTP-2050-0989; P-1277: CAR-OTP-2051-0966-R01 at 0971, para. 21 (Eng).

by village.¹²⁹ The Anti-Balaka's attacks in the autumn culminated in a large-scale assault on Bangui on 5 December 2013,¹³⁰ which was planned and coordinated.¹³¹

(iii) The pro-BOZIZE forces demonstrated significant logistical capacity

42. Even in the face of the impending takeover of Bangui, many of the pro-BOZIZE forces, including FACA and Presidential Guard members, remained sufficiently organised to retreat in good order, in whole units or sub-units. In doing so, notably, they managed to transport weapons out of Bangui to the provinces or border regions.¹³² Furthermore, after the Seleka took over Bangui, the pro-BOZIZE forces continued to successfully arrange transfers of weapons from Bangui to their fighters in the provinces.¹³³
43. Furthermore, like the Seleka, throughout the relevant period, the pro-BOZIZE forces demonstrated the logistical capacity required to recruit large numbers of new recruits into the Anti-Balaka. By February 2014, the group's ranks reportedly had reached 50,000 or more people.¹³⁴

c) The hostilities were sufficiently intense

44. The armed hostilities between the Seleka and the pro-BOZIZE forces were protracted. The intensity of the armed hostilities exceeded internal disturbances and tensions such as riots, isolated and sporadic acts of violence and other acts of a similar nature.¹³⁵ While there was a lull in the frequency of clashes immediately after BOZIZE and his forces were ousted from Bangui, this did not amount to a peaceful settlement, and the intensity

¹²⁹ **P-0342:** CAR-OTP-2012-0039-R01 at 0057-0058, para. 117 (Eng); *see also* **P-2328:** CAR-OTP-2099-0165-R01 at 0182-0183, 0190, paras. 92, 128 (Fr); **P-2232:** CAR-OTP-2107-6459-R01 at 6466, 6471, paras. 26-28, 54 (Fr).

¹³⁰ **P-1339:** CAR-OTP-2041-0741-R01 at 0751-0752, paras. 70-79 (Eng); **P-1297:** CAR-OTP-2039-0167-R01 at 0176-0177, paras. 61-66 (Eng).

¹³¹ **P-2232:** CAR-OTP-2107-6147-R01 at 6161-6162, paras. 79, 86 (Fr); **P-2232:** CAR-OTP-2107-6459-R01 at 6467-6468, paras. 32-38 (Fr); **P-2328:** CAR-OTP-2099-0165-R01 at 0179-0180, 0182, paras. 75, 87-89 (Fr); **P-1339:** CAR-OTP-2102-0105-R01 at 0117-0120, paras. 66-80 (Fr); **P-0975:** CAR-OTP-2107-1329-R01 at 1336, paras. 37-40 (Fr).

¹³² **P-2328:** CAR-OTP-2099-0165-R01 at 0173-0174, paras. 45-49.

¹³³ **P-2232:** CAR-OTP-2090-0561-R01 at 0570, paras. 61-62 (Eng); **P-2269:** CAR-OTP-2111-0336-R01 at 0345, paras. 68-69 (Eng); **P-1339:** CAR-OTP-2041-0741-R01 at 0747-0748, paras. 41-50 (Eng).

¹³⁴ **P-2232:** CAR-OTP-2107-6459-R01 at 6474, para. 69 (Fr); **Special info. bulletin:** CAR-OTP-0080-0818 at 0818; **P-0966:** CAR-OTP-2031-0241-R01 at 0246, para. 29 (Eng); **P-0966:** CAR-OTP-2102-0078-R01 at 0085, para. 29 (Fr); *see also* **Media Article:** CAR-OTP-2001-4020.

¹³⁵ On the factors relevant to this analysis, *see, for example, Ongwen* TJ, para. 2684; *Ntaganda* TJ, para. 716; *Lubanga* TJ, para. 538; *Boškoski* TJ, para. 177-192; *Haradinaj* TJ, para. 49; *Limaj* TJ, para. 90.

of hostilities was renewed within months.¹³⁶ There is no requirement that the violence be continuous and uninterrupted.¹³⁷

45. Indeed, throughout this period, the Seleka continued to seek out and detain or kill former FACA members and Presidential Guards suspected to be loyal to BOZIZE.¹³⁸ They also continued to recruit new members into their ranks, in anticipation of a counter-attack from BOZIZE loyalists.
46. Some forces loyal to BOZIZE had indeed remained within CAR and continued to display signs of armed resistance.¹³⁹ As a result, smaller-scale exchanges of fire took place between pro-BOZIZE forces and the Seleka over the ensuing months, with both sides sometimes employing heavy weapons.¹⁴⁰
47. Meanwhile, and as explained above, other forces loyal to the former BOZIZE government, including some members of the FACA, had started regrouping almost immediately after the coup.¹⁴¹ While much of the leadership of the pro-BOZIZE forces had based themselves in Yaoundé (Cameroon),¹⁴² many of the FACA members and Presidential Guards who remained loyal to BOZIZE — including KOUDEMON and the

¹³⁶ See *Gotovina* TJ, para. 1694; ICRC, Commentary on GCI (2016), para. 489.

¹³⁷ Confirmation Decision, para. 57 (citing *Ongwen* TJ, para. 2684).

¹³⁸ **P-2087**: CAR-OTP-2130-2320-R01 at 2327, para. 32 (Fr); **BINUCA report**: CAR-OTP-2034-0226 at 0259, para. 153; **P-0119**: CAR-OTP-2107-1295-R01 at 1306, paras. 63-64 (Fr); **OHCHR interim report**: CAR-OTP-2001-0172 at 0183-0184, paras. 52-53, 56, 62; **HRW Report**: CAR-OTP-2001-1870 at 1891.

¹³⁹ **P-2328**: CAR-OTP-2099-0165-R01 at 0187, para. 110 (Fr); **P-0100**: CAR-OTP-2118-6331-R01 at 6339, paras. 35, 38 (Fr).

¹⁴⁰ **P-0100**: CAR-OTP-2118-6331-R01 at 6339, paras. 35-39, at 6352, para. 110 (Fr); **P-2087**: CAR-OTP-2074-2965-R01 at 2968, 2970-2973, paras. 23, 34-39, 47-48, 52-53 (Eng); **P-2232**: CAR-OTP-2107-6147-R01 at 6155, paras. 48-50 (Fr); **P-0119**: CAR-OTP-2107-1295-R01 at 1306, paras. 63-67 (Fr); **P-0342**: CAR-OTP-2008-0499-R01 at 0506-0508, 0518-0519, paras. 51, 60, 127, 131-132 (Fr); **NSC document**: CAR-OTP-2034-3627-R01 at 3633; **B2 Report of 19 August 2013**: CAR-OTP-2075-0949; **UN Mapping Project Report**: CAR-OTP-2055-1987 at 2121; **CAR Primature archive document**: CAR-OTP-2101-3917; **P-0342**: CAR-OTP-2127-7319-R01 at 7362, para. 245 (Fr).

¹⁴¹ **P-2328**: CAR-OTP-2099-0165-R01 at 0173-0175, paras. 45, 48-51, 55 (Fr); **P-2232**: CAR-OTP-2090-0561-R01 at 0566-0572, paras. 33-40, 48-73 (Eng); **P-2232**: CAR-OTP-2107-6147-R01 at 6153-6159, paras. 33-40, 48-73 (Fr); **P-0966**: CAR-OTP-2031-0241-R01 at 0246-0247, paras. 31, 33; **UN Mapping Project Report**: CAR-OTP-2055-1987 at 2106. See also **P-0100**: CAR-OTP-2118-6331-R01 at 6339, para. 38 (Fr).

¹⁴² **P-0884**: CAR-OTP-2072-1356-R01 at 1362, 1376-1383, 1387-1389, ln. 186-189, 694-913, 1053-1126; CAR-OTP-2072-1616-R01 at 1639, lns. 784-799; CAR-OTP-2072-1654-R01 at 1659, 1661, lns. 142-149, 218-223; **P-2232**: CAR-OTP-2090-0561-R01 at 0566-0567, paras. 34, 39-40 (Eng); **P-2328**: CAR-OTP-2099-0165-R01 at 0192, para. 140 (Fr); **P-2269**: CAR-OTP-2111-0336-R01 at 0350, para. 108 (Eng); **P-1420**: CAR-OTP-2040-0811-R01 at 0815, 0818, paras. 25, 42 (Eng).

FACA elements under him¹⁴³ — had retreated to the border regions outside CAR, training and organizing for their return.¹⁴⁴

48. From September 2013 onward, Anti-Balaka groups began engaging in more intense hostilities against the Seleka in western CAR, starting in the area around Bossangoa,¹⁴⁵ spreading east to Bouca,¹⁴⁶ next to Bohong and Bouar,¹⁴⁷ and then south to Bossemptélé, Bossembélé and Boali,¹⁴⁸ with the aim of removing DJOTODIA from power and ousting the Seleka from the CAR.¹⁴⁹ These hostilities culminated in an attack on Bangui and Bossangoa on 5 December 2013.¹⁵⁰ 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.¹⁵¹
49. The 5 December 2013 Bangui attack was not immediately successful,¹⁵² but it catalysed weeks of increasingly intense violence.¹⁵³ Eventually, under growing international

¹⁴³ **B2 Report of 6 July 2013:** CAR-OTP-2075-0908; **B2 Report of 1 August 2013:** CAR-OTP-2075-0933.

¹⁴⁴ **P-2328:** CAR-OTP-2099-0165-R01 at 0173-0174, paras. 44-46 (Fr); **P-1339:** CAR-OTP-2041-0741-R01 at 0745-0747, paras. 29, 37-42 (Eng); **P-1420:** CAR-OTP-2040-0811-R01 at 0815, 0818, paras. 25, 42 (Eng).

¹⁴⁵ **P-2251:** CAR-OTP-2093-0045-R01 at 0052-0053, paras. 44-52 (Eng); CAR-OTP-2107-6230-R01 at 6238-6240, paras. 44-52 (Fr). *See also* **P-2232:** CAR-OTP-2090-0561-R01 at 0574-0575, paras. 88-90 (Eng); **P-0975:** CAR-OTP-2107-1329-R01 at 1335, para. 32 (Fr); **RFI media article of 9 September 2013:** CAR-OTP-2061-1428; **B2 document on 7 September 2013:** CAR-OTP-2075-0978; **B2 document on 9 September 2013:** CAR-OTP-2075-0985; **Report Panel of Experts:** CAR-OTP-2001-0835 at 0875, para. 1.

¹⁴⁶ **P-0966:** CAR-OTP-2031-0241-R01 at 0248-0251, paras. 40-55 (Eng); **CAR document:** CAR-OTP-2100-1790 at 1791; **B2 document on 9 September 2013:** CAR-OTP-2075-0985; **Report Panel of Experts:** CAR-OTP-2001-0835 at 0875, para. 1.

¹⁴⁷ **CAR document:** CAR-OTP-2100-1790 at 1791; **UN Mapping Project Report:** CAR-OTP-2055-1987 at 2242; **CAR Nat'l Sec. Comm. Report:** CAR-OTP-2034-3627-R01 at 3632-3633; **SG Report:** CAR-OTP-2001-0329 at 0338, para. 45.

¹⁴⁸ **Report Panel of Expert:** CAR-OTP-2001-0835 at 0875, para. 1; **UN Mapping Project Report:** CAR-OTP-2055-1987 at 2242. *See also* **P-0342:** CAR-OTP-2127-7319-R01 at 7359, para. 229 (Fr); **SG Report:** CAR-OTP-2001-0329 at 0338, para. 45.

¹⁴⁹ **P-0884:** CAR-OTP-2080-1678-R01 at 1699-1700, Ins. 699-747 (Fr/Eng).

¹⁵⁰ **P-2251:** CAR-OTP-2093-0045-R01 at 0059-0061, paras. 90-102 (Eng); **P-1339:** CAR-OTP-2041-0741-R01 at 0750-0752, paras. 66-80 (Eng); **P-2269:** CAR-OTP-2111-0336-R01 at 0343-0344, 0347-0348, paras. 56-58, 81-92 (Eng); **P-0966:** CAR-OTP-2031-0241-R01 at 0251-0252, paras. 59-67 (Eng); **UN SG Report:** CAR-OTP-2001-0409 at 0409, para. 3; **OHCHR Report:** CAR-OTP-2001-0391 at 0394, para. 12.

¹⁵¹ *See, e.g.,* **P-2251:** CAR-OTP-2093-0045-R01 at 0059-0061, paras. 90-102 (Eng); **P-1339:** CAR-OTP-2041-0741-R01 at 0750-0752, paras. 66-80 (Eng); **P-2269:** CAR-OTP-2111-0336-R01 at 0347-0348, paras. 81-92; **P-0100:** CAR-OTP-2027-2535-R01 at 2558, paras. 139-141 (Eng); **FIDH Report:** CAR-OTP-2001-2769 at 2799; **UN SG Report:** CAR-OTP-2001-0409 at 0409, para. 3; **ICG Report:** CAR-OTP-2027-1631 at 1648; **IPIS Report:** CAR-OTP-2001-5739 at 5788.

¹⁵² **P-2251:** CAR-OTP-2093-0045-R01 at 0059-0061, paras. 90-102 (Eng); **P-0975:** CAR-OTP-2033-7885-R01 at 7890-7891, paras. 37-41 (Eng). *See also* **FIDH Report:** CAR-OTP-2001-2769 at 2802; **IPIS Report:** CAR-OTP-2001-5739 at 5788.

¹⁵³ **P-0342:** CAR-OTP-2116-0216-R01 at 0257-0258, paras. 249-259 (Eng); **P-1339:** CAR-OTP-2041-0741-R01 at 0753-0747-0755, paras. 81-96 (Eng). *See also* **FIDH Report:** CAR-OTP-2001-2769 at 2802; **IPIS Report:** CAR-OTP-2001-5739 at 5788.

pressure, DJOTODIA resigned in January 2014, and the Seleka forces retreated to the north and east of the CAR.¹⁵⁴

2. *Nexus requirement*

50. The conduct that forms the basis of the charges took place in the context of and was associated with the armed conflict. Specifically, the charged crimes at the OCRB occurred because the Seleka perceived people with certain affiliations to be BOZIZE supporters and targeted them on that basis.¹⁵⁵

3. *SAID's knowledge*

51. At all material times, **SAID** was aware of the factual circumstances that established the existence of the armed conflict. As a senior leader of the Seleka coalition, who had joined the Seleka from the beginning and marched on Bangui in March 2013, he cooperated closely with the most senior leaders of the coalition to establish the new government and especially to suppress all resistance to the Seleka's regime.¹⁵⁶ Furthermore, throughout this period, information on the activities of the pro-BOZIZE forces/Anti-Balaka and the exchange of fire were widely reported in media articles and radio broadcasts accessible to **SAID**.¹⁵⁷

B. Contextual elements of article 7 (Crimes against Humanity)

52. From at least April 2013 until at least November 2013,¹⁵⁸ the Seleka—including **SAID** and his subordinates—committed a widespread and systematic attack against the civilian population in Bangui perceived to be BOZIZE supporters. This attack was committed pursuant to, and in furtherance of, a State or organisational policy by the Seleka to attack such persons,¹⁵⁹ including on the basis of characteristics which they perceived to be associated with support for BOZIZE. Specifically, the evidence shows targeting of (i)

¹⁵⁴ **Media article:** CAR-OTP-2001-4199; **UN SC Report:** CAR-OTP-2001-0409 at 0410-0411, paras. 8-9.

¹⁵⁵ See *infra*, paras. 138, 143, 154, 157, 159, 173, 222, 268.

¹⁵⁶ **P-0349:** CAR-OTP-2075-0812-R01 at 0823, para. 56 (Eng); **P-2105:** CAR-OTP-2094-0002-R01 at 0017, para. 93 (Eng); **Report:** CAR-OTP-2001-2890 at 2933-2934.

¹⁵⁷ **Media Articles:** CAR-OTP-2001-4146; CAR-OTP-2074-0278; CAR-OTP-2001-4020; CAR-OTP-2001-4071; CAR-OTP-2061-1428; CAR-OTP-2088-3053; CAR-OTP-2074-0366 at 0375; CAR-OTP-2074-0411 at 0413, 0420; **Radio broadcasts:** CAR-OTP-2042-0747 from [00:00:00] to [00:07:30]; CAR-OTP-2042-2217 from [00:33:18] to [00:35:00], from [00:39:00] to [00:41:00].

¹⁵⁸ Confirmation Decision, para. 61 (referring to this date range), p. 51, para. 14 (relevant period of the confirmed charges);

¹⁵⁹ See Confirmation Decision, paras. 62-65, pp. 52-53, para 15.

Christians;¹⁶⁰ (ii) people of the Gbaya, Mandja, and Banda ethnic groups;¹⁶¹ (iii) people living in certain neighbourhoods of Bangui;¹⁶² (iv) people who had certain professions perceived to be supportive of BOZIZE, such as members of the FACA and former Presidential Guards who had served under BOZIZE, and people close to them;¹⁶³ and (v) people who had been employed by the BOZIZE government.¹⁶⁴

53. It is immaterial whether the main aim or object of the attack was to attack civilians, or whether the attack also served other objectives, such as to locate or detain fighters affiliated to the adverse party to the ongoing conflict. What is relevant is that the civilian population was actually attacked.¹⁶⁵ This is a factual determination.¹⁶⁶ Nor is it required that all the victims of the incidents with which **SAID** is charged were civilians. Rather, it suffices that a sufficient number of victims of the *attack* were civilians, in order to establish the civilian character of the affected population.¹⁶⁷
54. Within the context of an armed conflict,¹⁶⁸ the qualification of a person as a civilian for the purpose of crimes against humanity may be determined by international

¹⁶⁰ **P-1004**: CAR-OTP-2043-0536-R01 at 0546, para. 73 (Eng); CAR-OTP-2130-1736-R01 at 1748, para. 73 (Fr).

¹⁶¹ **P-0119**: CAR-OTP-2032-0753-R01 at 0772, paras. 135, 137 (Eng); CAR-OTP-2107-1295-R01 at 1317, paras. 135, 137 (Fr); **P-1420**: CAR-OTP-2040-0811-R01 at 0830, para. 116 (Eng); CAR-OTP-2130-1827-R01 at 1848, para. 116 (Fr); **P-0100**: CAR-OTP-2027-2535-R01 at 2538, paras. 18, 20 (Eng); CAR-OTP-2118-6331-R01 at 6335-6336, paras. 18, 20 (Fr); **P-1524**: CAR-OTP-2062-0468-R01 at 0471-0472, paras. 20, 22 (Eng); CAR-OTP-2130-1902-R01 at 1906-1907, paras. 20, 22 (Fr); **P-2042**: CAR-OTP-2074-0002-R01 at 0007, para. 23 (Eng); CAR-OTP-2130-5296-R01 at 5302, para. 23 (Fr); **P-0787**: CAR-OTP-2130-0893-R01 at 0900, para. 31 (Fr); CAR-OTP-2036-0410-R01 at 0416, para. 31 (Eng); **P-2232**: CAR-OTP-2107-6147-R01 at 6163, para. 91 (Fr); CAR-OTP-2090-0561-R01 at 0575, para. 91 (Eng); **P-0884**: CAR-OTP-2072-1913-R01 at 1943, 1946-1947, lns. 1049-1050, 1143-1193 (Eng/Fr); **P-2027**: CAR-OTP-2078-0059-R01 at 0063, para. 30 (Eng); CAR-OTP-2118-0965-R01 at 0970-0971, para. 30 (Fr); **P-0435**: CAR-OTP-2017-0036-R01 at 0065, para. 174 (Eng).

¹⁶² See *infra*, para. 58, 61 (citing sources); **P-2042**: CAR-OTP-2074-0002-R01 at 0007, para. 23; CAR-OTP-2130-5296-R01 at 5302, para. 23 (Fr); **P-2027**: CAR-OTP-2078-0059-R01 at 0063, para. 30; CAR-OTP-2118-0965-R01 at 0970-0971, para. 30 (Fr); **P-1970**: CAR-OTP-2087-9396-R01 at 9404, para. 34 (Eng); CAR-OTP-2070-0995-R01 at 1002, para. 34 (Fr).

¹⁶³ **P-2179**: CAR-OTP-2088-2250-R01 at 2255, para. 28 (Eng); CAR-OTP-2130-2342-R01 at 2348-2349, para. 28 (Fr); **P-1524**: CAR-OTP-2062-0468-R01 at 0471, para. 20 (Eng); CAR-OTP-2130-1902-R01 at 1906, para. 20 (Fr); **P-1825**: CAR-OTP-2079-0315-R01 at 0319-0320, para. 27 (Eng); CAR-OTP-2130-2169-R01 at 2175, para. 27 (Fr); **P-2042**: CAR-OTP-2074-0002-R01 at 0007, paras. 23-24 (Eng); CAR-OTP-2130-5296-R01 at 5302, paras. 23-24 (Fr); **P-1970**: CAR-OTP-2087-9396-R01 at 9400, para. 18 (Eng); CAR-OTP-2070-0995-R01 at 0998, para. 18 (Fr); **P-2328**: CAR-OTP-2099-0165-R01 at 0222, para. 307 (Fr).

¹⁶⁴ **P-1289**: CAR-OTP-2053-0359-R01 at 0362, para. 20 (Eng); CAR-OTP-2127-7632-R01 at 7636, para. 20 (Fr); **P-1524**: CAR-OTP-2062-0468-R01 at 0471, para. 20 (Eng); CAR-OTP-2130-1902-R01 at 1906, para. 20 (Fr).

¹⁶⁵ ICC-01/04-02/06-2666-Red A A2 (“*Ntaganda* AJ”), para. 424.

¹⁶⁶ *Id.*

¹⁶⁷ See, e.g., ICTY, *Prosecutor v. Martić*, IT-95-11-A, Judgment, 8 October 2008 (“*Martić* AJ”), paras. 305, 307-309, 311, 313; ICTY, *Prosecutor v. Mrkšić and Šljivančanin*, IT-95-13/1-A, Judgment, 5 May 2009, paras. 29-32. See also *Ongwen* TJ, para. 2675; *Ntaganda* TJ, para. 669; ICC-01/05-01/08-3343 (“*Bemba* TJ”), paras. 153, 156.

¹⁶⁸ See ECCC, *Case 003*, Notification on the Interpretation of ‘Attack against the Civilian Population’ in the Context of Crimes against Humanity with Regard to a State’s or Regime’s Own Armed Forces, 003/07-09-2009-ECCC-OCIJ, 7 February 2017, para. 56.

humanitarian law.¹⁶⁹ In a non-international armed conflict, this may mean that members of dissident armed forces or organised armed groups are to be excluded from the civilian population for the purpose of the *chapeau* of article 7 of the Statute,¹⁷⁰ even when they are *hors de combat*.¹⁷¹ Conversely, mere political or logistical supporters of such forces or groups whose function does not involve direct participation in hostilities are not members of those forces or groups for the purpose of international humanitarian law.¹⁷²

1. The conduct of the Seleka involved the commission of multiple acts of violence referred to in article 7(1) directed against the civilian population

55. The Seleka engaged in a course of conduct that included the multiple commission of article 7(1) acts, including multiple acts of murder, rape, torture, imprisonment, persecution, and other inhumane acts. This course of conduct included the charged acts that took place at the OCRB, as described in detail below.¹⁷³
56. The attack further involved non-charged article 7(1) acts that took place in other locations in Bangui. As examples, the Prosecution describes below five additional incidents that are reflective of the attack (the “Additional Incidents”).¹⁷⁴ These incidents, which the Prosecution presents as examples of the overall attack, include (a) an assault on 13 April 2013 on the 7th *arrondissement* area of Bangui; (b) a 14-16 April 2013 operation in the Boy Rabe neighborhood of Bangui; (c) an operation in Boy Rabe starting on 20 August 2013; (d) an assault on at least six passengers taken from a minibus at the PK9 checkpoint in Bangui, on or around 13 July 2013; and (e) imprisonment, mistreatment, and torture at the CEDAD.
57. The Prosecution notes that the unlawful appropriation of property (for example, looting) is not an act expressly prohibited by article 7(1) of the Statute. As further explained below,¹⁷⁵ such acts may in certain circumstances nonetheless amount to

¹⁶⁹ See, e.g., *Martić* AJ, para. 299. See also ICC-01/04-01/07-3436-tENG (“*Katanga* TJ”), para. 1102; *Bemba* TJ, para. 152; ICC-01/05-01/08-424 (“*Bemba* Confirmation Decision”), para. 78. Cf. Ambos, K., ‘The ECCC’s Contribution to Substantive ICL: The Notion of “Civilian Population” in the Context of Crimes Against Humanity,’ *Journal of International Criminal Justice*, Vol. 18 (2020), p. 689.

¹⁷⁰ See, e.g., ICRC, *Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law*, 2009 (“*DPH Interpretive Guidance*”), pp. 28, 30-32; *Martić* AJ, paras. 300, 302. On dissident armed forces, see also Schmitt, pp. 124-126.

¹⁷¹ See, e.g., *Martić* AJ, para. 302; ICTY, *Prosecutor v. Galić*, IT-98-29-A, Judgment, 30 November 2006, para. 144 (fn. 437); *Prosecutor v. Blaškić*, IT-95-14-A, Judgment, 29 July 2004, para. 114.

¹⁷² See *DPH Interpretive Guidance*, pp. 32-36. But see also Schmitt, pp. 132-133.

¹⁷³ See *infra*, §III(B), esp. III(B)(2).

¹⁷⁴ See Confirmation Decision, para. 60 & p. 53, para. 18.

¹⁷⁵ See *infra*, para. 104; see also *infra*, paras. 64, 83, 86.

other inhumane acts under article 7(1)(k) (for example, the appropriation of food from a starving population), or an underlying act of persecution under article 7(1)(h). Moreover, the widespread occurrence of looting in several of the Additional Incidents described below is generally corroborative of the other evidence showing that the civilian population was subject to a widespread or systematic attack pursuant to a State or organisational policy.

a) Assault on 13 April 2013 on the 7th *arrondissement* area of Bangui

58. On 13 April 2013, the Seleka attacked the 7th *arrondissement*,¹⁷⁶ an area perceived to be aligned with BOZIZE.¹⁷⁷ During this attack, Seleka committed murders, looted property, and arbitrarily arrested residents, including children under fifteen years of age.¹⁷⁸ Although the Seleka said they were looking for FACA members, as P-0312 saw it, they appeared “to simply target everyone.”¹⁷⁹ [REDACTED].¹⁸⁰
59. According to contemporaneous records prepared by the Red Cross, at least 30 people were killed by the Seleka during this attack.¹⁸¹ Prosecution witnesses directly witnessed such killings. For example, [REDACTED],¹⁸² [REDACTED].¹⁸³ [REDACTED].”¹⁸⁴ Other witnesses helped bury the bodies of civilians killed by the Seleka during the attack. [REDACTED].¹⁸⁵ [REDACTED].¹⁸⁶

¹⁷⁶ See Confirmation Decision, para. 60 & p. 53, para. 18.

¹⁷⁷ **P-1289:** CAR-OTP-2053-0359-R01 at 0363, para. 22 (Eng); CAR-OTP-2127-7632-R01 at 7637, para. 22 (Fr); **P-0312:** CAR-OTP-2039-0133-R01 at 0137, para. 25 (Eng); CAR-OTP-2122-3598-R01 at 3603, para. 25 (Fr).

¹⁷⁸ **P-0312:** CAR-OTP-2039-0133-R01 at 0139, paras. 37-42 (Eng); **P-0881:** CAR-OTP-2032-0682-R01 at 0691-0693, paras. 61-76 (Eng); **P-0882:** CAR-OTP-2032-0654-R01 at 0660-0661, paras. 34-43 (Eng). See also **P-1289:** CAR-OTP-2053-0359-R01 at 0363, para. 22 ([REDACTED]).

¹⁷⁹ **P-0312:** CAR-OTP-2039-0133-R01 at 0139, para. 37 (Eng); CAR-OTP-2122-3598-R01 at 3605, para. 37 (Fr); see also **P-1289:** CAR-OTP-2127-7632-R01 at 7637, para. 22 (Fr); **P-0882:** CAR-OTP-2032-0654-R01 at 0660-0661, paras. 34-36, 43.

¹⁸⁰ **P-0312:** CAR-OTP-2039-0133-R01 at 0139-0140, paras. 37-45; **P-0312 Annexes 4-5 and 16** ([REDACTED]): CAR-OTP-2039-0336; CAR-OTP-2039-0337; CAR-OTP-2039-0338; CAR-OTP-2039-0339; CAR-OTP-2039-0340; CAR-OTP-2039-0341; CAR-OTP-2039-0342; CAR-OTP-2039-0343; CAR-OTP-2039-0344; CAR-OTP-2039-0345; CAR-OTP-2039-0346; CAR-OTP-2039-0347; CAR-OTP-2039-0348; CAR-OTP-2039-0349; CAR-OTP-2039-0157; **P-0882:** CAR-OTP-2032-0654-R01 at 0660, para. 35 (Eng); **P-1289,** CAR-OTP-2053-0359-R01 at 0363, para. 23.

¹⁸¹ **P-0312:** CAR-OTP-2039-0133-R01 at 0141-0142, paras. 51-54, 59 (Eng); **P-0312, Annexes 7-10:** CAR-OTP-2039-0351; CAR-OTP-2039-0353; CAR-OTP-2039-0354; CAR-OTP-2039-0355. See also **HRW Press Release:** CAR-OTP-2001-1759 at 1763.

¹⁸² **P-2386:** CAR-OTP-2135-2792-R01 at 2796-2797, paras. 23-27.

¹⁸³ **P-2386:** CAR-OTP-2135-2792-R01 at 2798, 2800, paras. 37, 47-49, [REDACTED].

¹⁸⁴ **P-0882:** CAR-OTP-2032-0654-R01 at 0661, paras. 38-40 (Eng). [REDACTED]. See also **P-0312 Annexes:** CAR-OTP-2039-0351 at 0351, entry 12; CAR-OTP-2039-0353 at 0353, entry 13; CAR-OTP-2039-0355 at 0355, entry 3.

¹⁸⁵ **P-1808:** CAR-OTP-2135-2185-R01 at 2187, para. 14 (Fr).

¹⁸⁶ **P-0881:** CAR-OTP-2032-0682-R01 at 0693, para. 72 (Eng).

60. In addition to killings, the Seleka also targeted males for arrest during this attack. [REDACTED], describes narrowly escaping death or arbitrary arrest after being falsely accused of being a soldier.¹⁸⁷ He was spared only after his female neighbors insisted that he was not a soldier and offered the Seleka money.¹⁸⁸ [REDACTED].¹⁸⁹

b) Operation in the Boy Rabe neighbourhood of Bangui from 14-16 April 2013

61. On 14-16 April 2013, the Seleka attacked the Boy Rabe neighbourhood of Bangui,¹⁹⁰ another area perceived to be aligned with the pro-BOZIZE forces/Anti-Balaka.¹⁹¹ This attack was organised in advance,¹⁹² with senior Seleka officers present¹⁹³ and issuing orders during it.¹⁹⁴ While ostensibly a disarmament operation, the attack resulted in killings, rapes, looting, and other violence. The Seleka encircled Boy Rabe and prevented people from coming in and out, preventing them from escaping the violence.¹⁹⁵
62. One witness present during the attack, P-0119, described it as “like a collective punishment.”¹⁹⁶ Witnesses state that the Seleka told residents that they considered

¹⁸⁷ **P-1808:** CAR-OTP-2135-2185-R01 at 2187-2188, para. 15 (Fr).

¹⁸⁸ **P-1808:** CAR-OTP-2135-2185-R01 at 2187-2188, para. 15 (Fr).

¹⁸⁹ **P-0881:** CAR-OTP-2032-0682-R01 at 0692-0693, paras. 69-71 (Eng). [REDACTED]. **P-0881:** CAR-OTP-2032-0682-R01 at 0694, paras. 82-83 (Eng).

¹⁹⁰ **P-1524:** CAR-OTP-2130-1902-R01 at 1908, para. 27 (Fr).

¹⁹¹ **P-0119:** CAR-OTP-2107-1295-R01 at 1302-1308, 1323-1325, paras. 35-37, 66-74, 180, 192 (Fr); **P-1420:** CAR-OTP-2040-0811-R01 at 0830, para. 116 (Eng); CAR-OTP-2130-1827-R01 at 1848, para. 116 (Fr); **P-0100:** CAR-OTP-2118-6331-R01 at 6338, para. 29 (Fr); **P-1313:** CAR-OTP-2038-0098-R01 at 0100-0101, para. 17 (Eng); CAR-OTP-2130-5284-R01 at 5887-5888, para. 17 (Fr); **P-1524:** CAR-OTP-2062-0468-R01 at 0471-0472, paras. 20, 25 (Eng); CAR-OTP-2130-1902-R01 at 1906-1907, paras. 20, 25 (Fr); **P-0435:** CAR-OTP-2017-0036-R01 at 0060, paras. 138, 142 (Eng); CAR-OTP-2104-0954-R01 at 0980, paras. 138, 142 (Fr).

¹⁹² See *infra*, paras. 85-100; **HRW Report:** CAR-OTP-2001-1870 at 1931-1936.

¹⁹³ **P-0342:** CAR-OTP-2008-0499-R01 at 0506, 0523-0524, paras. 50-51, 158-159, 165 (Fr); CAR-OTP-2012-0039-R01 at 0047, 0064-0065, paras. 50-51, 158-159, 165 (Eng); **Annexes 1 and 6:** CAR-OTP-2008-0528-R01 and CAR-OTP-2008-0538-R01; **P-1264:** CAR-OTP-2036-0065-R01 at 0069, paras. 28-36 (Eng); CAR-OTP-2127-7529-R01 at 7534, paras. 28-36 (Fr); **P-1524:** CAR-OTP-2062-0468-R01 at 0476-0478, paras. 34-35, 49-50 (Eng); CAR-OTP-2130-1902-R01 at 1911, 1914, paras. 34-35, 49-50 (Fr).

¹⁹⁴ **P-1825:** CAR-OTP-2079-0315-R01 at 0318, paras. 17-21, at 0321-0323, para. 34, 40-43, 45 (Eng); CAR-OTP-2130-2169-R01 at 2173-2174, 2176, 2178-2179, paras. 17-21, 34, 40-43, 45 (Fr); **P-1264:** CAR-OTP-2036-0065-R01 at 0068, paras. 23-27 (Eng); CAR-OTP-2127-7529-R01 at 7533, paras. 23-27 (Fr); **P-0342:** CAR-OTP-2008-0499-R01 at 0506, paras. 51-53 (Fr); CAR-OTP-2012-0039-R01 at 0047-0048, paras. 51-53 (Eng); **P-1970:** CAR-OTP-2070-0995-R01 at 1002, para. 36 (Fr); CAR-OTP-2087-9396-R01 at 9404-9405, para. 36 (Eng); **P-1524:** CAR-OTP-2062-0468-R01 at 0477, paras. 42-45 (Eng); CAR-OTP-2130-1902-R01 at 1912-1913, paras. 42-45 (Fr).

¹⁹⁵ **P-0119:** CAR-OTP-2032-0753-R01 at 0767, para. 95 (Eng); CAR-OTP-2107-1295-R01 at 1311, para. 95 (Fr); **P-1277:** CAR-OTP-2039-0419-R01 at 0423, para. 20 (Fr); CAR-OTP-2051-0966-R01 at 0970-0971, para. 20 (Eng); **P-1524:** CAR-OTP-2062-0468-R01 at 0473, para. 27 (Eng); CAR-OTP-2130-1902-R01 at 1908, para. 27 (Fr).

¹⁹⁶ **P-0119:** CAR-OTP-2032-0753-R01 at 0767, para. 99 (Eng); CAR-OTP-2107-1295-R01 at 1312, para. 99 (Fr).

chickens to be more valuable than people from Boy Rabe.¹⁹⁷ During the attack, the Seleka launched a rocket that hit a Christian church located in or on the edge of Boy Rabe,¹⁹⁸ killing and severely injuring many people, including children.¹⁹⁹

63. This attack resulted in many murder²⁰⁰ and rape victims.²⁰¹ [REDACTED].²⁰² Seven Prosecution witnesses describe witnessing murders by the Seleka²⁰³ or seeing the corpses of murder victims.²⁰⁴ [REDACTED].²⁰⁵ Multiple sources detail the murder of a woman named Sandrine and her infant.²⁰⁶ Non-Muslim men were also arbitrarily arrested during this operation.²⁰⁷

¹⁹⁷ **P-1264:** CAR-OTP-2127-7529-R01 at 7535, para. 40 (Fr); **P-1825:** CAR-OTP-2130-2169-R01 at 2178, para. 40 (Fr); *see also* **P-1524:** CAR-OTP-2130-1902-R01 at 1918, para. 68 (Fr); **P-1297:** CAR-OTP-2107-1354-R01 at 1359, para. 29 (Fr).

¹⁹⁸ **P-1277:** CAR-OTP-2039-0419-R01 at 0423-0424, para. 24 (Fr); CAR-OTP-2051-0966-R01 at 0971, para. 24 (Eng); **P-1277 Incident Logbook:** CAR-OTP-2039-0444-R01; **AI Report:** CAR-OTP-2001-1767 at 1787; *see also* **P-0342:** CAR-OTP-2008-0499-R01 at 0523, paras. 158, 163 (Fr); CAR-OTP-2012-0039-R01 at 0064-0065, paras. 158, 163 (Eng); **P-0342:** CAR-OTP-2116-0216-R01 at 0231, paras. 77, 81, 84 (Eng); CAR-OTP-2127-7319-R01 at 7335-7336, paras. 77, 81, 84 (Fr).

¹⁹⁹ **P-1277:** CAR-OTP-2039-0419-R01 at 0423-0424, paras. 24-26 (Fr); CAR-OTP-2051-0966-R01 at 0971-0972, paras. 24-26 (Eng); **P-0342:** CAR-OTP-2116-0216-R01 at 0231, paras. 77-84 (referring to photos CAR-OTP-2074-1309 to CAR-OTP-2074-1319) (Eng); CAR-OTP-2127-7319-R01 at 7335-7336, paras. 77-84 (Fr); **P-0291:** CAR-OTP-2024-0036-R01 at 0051, para. 94 (Fr); **HRW Report:** CAR-OTP-2001-1870 at 1935-1936; **UN Mapping Project Report:** CAR-OTP-2055-1987 at 2114.

²⁰⁰ **P-0119:** CAR-OTP-2032-0753-R01 at 0767-0773, paras. 95, 110, 114, 117-118, 142 (Eng); Annex 5: CAR-OTP-2032-0789; **P-0100:** CAR-OTP-2027-2535-R01 at 2543-2545, 2560-2561, paras. 47, 52, 59-60, 152-155 (Eng); **P-1825:** CAR-OTP-2079-0315-R01 at 0321-0322, paras. 35, 38 (Eng); **P-1264:** CAR-OTP-2036-0065-R01 at 0069, para. 36 (Eng); **P-0834:** CAR-OTP-2029-0248-R01 at 0253-0254, paras. 33-37 (Fr); **P-0342:** CAR-OTP-2116-0216-R01 at 0047-0048, paras. 51-53; **P-1277:** CAR-OTP-2051-0966-R01 at 0970-0971, paras. 20, 22-25 (Eng); **P-0787:** CAR-OTP-2036-0410-R01 at 0416, paras. 32-33 (Eng); **HRW Report:** CAR-OTP-2001-1870 at 1891, 1896, 1934-1935.

²⁰¹ **P-1264:** CAR-OTP-2036-0065-R01 at 0068, paras. 23-27 (Eng); **P-1313:** CAR-OTP-2038-0098-R01 at 0103, 0105, paras. 35-40, 54-56 (Eng); **P-0834:** CAR-OTP-2048-0310-R01 at 0316, paras. 33-37 (Eng); *see also* **P-0100:** CAR-OTP-2027-2535-R01 at 2545, paras. 56-57 (Eng); **P-1524:** CAR-OTP-2062-0468-R01 at 0483-0484, paras. 76-78 (Eng); **P-1524, Annex 3:** CAR-OTP-2062-0495; **P-0119:** CAR-OTP-2032-0753-R01 at 0767, para. 95, at 0770, para. 117 (Eng); **P-1825:** CAR-OTP-2079-0315-R01 at 0321, 0324, para. 37, 48 (Eng); **OHCHR mission report:** CAR-OTP-2034-0270 at 0298, para. 143; **HRW Report:** CAR-OTP-2001-1870 at 1940-1941.

²⁰² **P-1264:** CAR-OTP-2036-0065-R01 at 0068, paras. 23-27 (Eng); **P-1313:** CAR-OTP-2038-0098-R01 at 0103, 0105, paras. 35-40, 54-56 (Eng). For the date of [REDACTED], *see* CAR-OTP-2034-1324-R01 at 1349.

²⁰³ **P-1825:** CAR-OTP-2079-0315-R01 at 0321-0322, paras. 35, 38 (Eng); **P-1524:** CAR-OTP-2062-0468-R01 at 0475, para. 31 (Eng); **P-0342:** CAR-OTP-2012-0039-R01 at 0047-0048, paras. 51-53 (Eng); **P-0834:** CAR-OTP-2048-0310-R01 at 0316, paras. 33-37 (Eng).

²⁰⁴ **P-1264:** CAR-OTP-2036-0065-R01 at 0069, para. 36 (Eng); **P-0100:** CAR-OTP-2027-2535-R01 at 2543, 2545, paras. 47, 59-60 (Eng); **P-0119:** CAR-OTP-2032-0753-R01 at 0769-0770, 0773, paras. 109-110, 114, 117, 142 (Eng).

²⁰⁵ **P-0834:** CAR-OTP-2048-0310-R01 at 0316-0317, paras. 33-37 (Eng).

²⁰⁶ **P-0100:** CAR-OTP-2027-2535-R01 at 2560-2561, para. 153 (Eng); **HRW Report:** CAR-OTP-2001-1870 at 1896, 1934-1935; **P-0119:** CAR-OTP-2032-0753-R01 at 0769, para. 114.

²⁰⁷ *See e.g.,* **P-0119:** CAR-OTP-2032-0753-R01 at 0771, para. 128.

64. The attack also involved numerous instances of other inhumane acts, such as severe beatings²⁰⁸ and door-by-door, clearance-style looting of personal property,²⁰⁹ including food and other goods vital to the basic subsistence of the Boy Rabe residents.²¹⁰ As one [REDACTED] put it, “[b]y the time [the Seleka] were done looting, people had nothing left to wear or to eat. Their livelihoods were destroyed.”²¹¹

c) Operation in Boy Rabe starting on 20 August 2013

65. Starting from 20 August 2013,²¹² the Seleka again carried out another large-scale operation in the Boy Rabe neighbourhood. On this occasion, using the pretext of looking for arms caches,²¹³ the Seleka committed similar crimes as during the April 2013 operation,²¹⁴ in a similarly organised fashion under the instruction of Seleka commanders.²¹⁵

²⁰⁸ **P-0834:** CAR-OTP-2029-0248-R01 at 0253-0254, paras. 35-37 (Fr); **P-0358:** CAR-OTP-2043-0433-R01 at 0443, para. 72 (Eng); Annex 1: CAR-OTP-2043-0603 (list documenting admission of 52 injured people to a Bangui hospital on 14 April 2013); **P-1825:** CAR-OTP-2079-0315-R01 at 0321, para. 36 (Eng); **P-0119:** CAR-OTP-2032-0753-R01 at 0768, paras. 103-107 (Eng).

²⁰⁹ **P-0119:** CAR-OTP-2032-0753-R01 at 0767, 0769-0773, paras. 95, 113, 122, 127, 129-130, 134, 137 (Eng); **P-1825:** CAR-OTP-2079-0315-R01 at 0319, 0320, 0324, paras. 26, 28, 30, 47 (Eng); **P-1264:** CAR-OTP-2036-0065-R01 at 0069, paras. 37-38 (Eng); **P-1313:** CAR-OTP-2038-0098-R01 at 0102, paras. 33, 40 (Eng); **P-1277:** CAR-OTP-2051-0966-R01 at 0970-0971, paras. 20, 24 (Eng); **P-1524:** CAR-OTP-2062-0468-R01 at 0475, para. 31 (Eng).

²¹⁰ **P-0119:** CAR-OTP-2032-0753-R01 at 0769, 0780, paras. 113, 192 (Eng); CAR-OTP-2107-1295-R01 at 1314, 1325, paras. 113, 192 (Fr); **P-0100:** CAR-OTP-2027-2535-R01 at 2543-2544, para. 53 (Eng); CAR-OTP-2118-6331-R01 at 6342-6343, para. 53 (Fr); **P-1297:** CAR-OTP-2039-0167-R01 at 0181, para. 96 (Eng); CAR-OTP-2107-1354-R01 at 1370, para. 96 (Fr); **P-1524:** CAR-OTP-2062-0468-R01 at 0476-0477, 0485, paras. 40, 85 (Eng); CAR-OTP-2130-1902-R01 at 1912, 1922, paras. 40, 85 (Fr.)

²¹¹ **P-0100:** CAR-OTP-2027-2535-R01 at 2544, para. 53 (Eng); CAR-OTP-2118-6331-R01 at 6342-6343, para. 53 (Fr).

²¹² **P-1263:** CAR-OTP-2054-0616-R01 at 0624, para. 45 (Eng); CAR-OTP-2045-0805-R01 at 0812, para. 45 (Fr); **P-0547:** CAR-OTP-2025-0566-R01 at 0571, para. 22 (Eng); CAR-OTP-2018-0389-R01 at 0393, para. 22 (Fr).

²¹³ **UN Mapping Project Report:** CAR-OTP-2055-1987 at 2114. *See also* **P-1970:** CAR-OTP-2087-9396-R01 at 9404-9405, para. 36 (Eng); **P-0100:** CAR-OTP-2027-2535-R01 at 2562, para. 161 (Eng).

²¹⁴ **P-1427:** CAR-OTP-2051-0180-R01 at 0183-0184, paras. 12-21 (Eng); CAR-OTP-2043-0363-R01 at 0365-0366, paras. 12-21 (Fr); **P-2087:** CAR-OTP-2074-2965-R01 at 2975-2976, para. 66; CAR-OTP-2130-2320-R01 at 2332-2333, para. 66 (Fr); **P-1825:** CAR-OTP-2079-0315-R01 at 0324, para. 50 (Eng); CAR-OTP-2130-2169-R01 at 2180, para. 50 (Fr); **P-2042:** CAR-OTP-2074-0002-R01 at 0006-0010, paras. 21, 25, 29-36 (Eng); **P-1297:** CAR-OTP-2039-0167-R01 at 0172, para. 36 (Eng); CAR-OTP-2107-1354-R01 at 1360, para. 36 (Fr).

²¹⁵ **P-1420:** CAR-OTP-2040-0811-R01 at 0830, paras. 117-120 (Eng); CAR-OTP-2130-1827-R01 at 1848-1849, paras. 117-120 (Fr); **P-0100:** CAR-OTP-2027-2535-R01 at 2545, 2547-2548, paras. 60, 68-77 (Eng); CAR-OTP-2118-6331-R01 at 6344, 6345-6347, paras. 60, 68-77 (Fr); **P-2087:** CAR-OTP-2074-2965-R01 at 2977-2978, paras. 71-73 (Eng); CAR-OTP-2130-2320-R01 at 2334-2336, paras. 71-73 (Fr); **P-0547:** CAR-OTP-2025-0566-R01 at 0571, para. 25 (Eng); CAR-OTP-2018-0389-R01 at 0393, para. 25 (Fr); **P-2573:** CAR-OTP-2119-0532-R01 at 0540, paras. 36-37 (Eng); CAR-OTP-2130-5230-R01 at 5239, paras. 36-37 (Fr); **HRW Report:** CAR-OTP-2001-1870 at 1952.

66. The commanders overseeing the operation included ADAM. [REDACTED].²¹⁶ [REDACTED]”²¹⁷ [REDACTED].”²¹⁸ [REDACTED] [REDACTED],²¹⁹ [REDACTED].²²⁰
67. Like P-1263, another Prosecution witness, P-1427, also narrowly survived an attempt to kill him during an execution-style shooting that resulted in the death of [REDACTED].²²¹ The Seleka also shot at P-1424, [REDACTED] [REDACTED].²²² Another witness, P-1523, witnessed the Seleka torture and kill her husband,[REDACTED] at their home during the August 2013 Boy Rabe operation.²²³ She states that the Seleka killed her husband on accusations of being a soldier, even though he was neither a soldier nor involved with the armed resistance.²²⁴
68. Other witnesses also saw the Seleka killing civilians during this operation or saw the victims’ bodies in the immediate aftermath. P-1297, for example, states that the Seleka “fired their weapons at everything that moved;” [REDACTED].²²⁵
69. The Seleka arbitrarily arrested and mistreated many other people around the time of this incident, including Prosecution witnesses P-0547 and P-2179, who both ended up at the OCRB.²²⁶ Some of the people the Seleka arrested in Boy Rabe around this time never returned. For example, around this time, the Seleka severely beat and imprisoned two

²¹⁶ **P-1263:** CAR-OTP-2045-0805-R01 at 0819-0820, paras. 87-89 (Fr).

²¹⁷ **P-1263:** CAR-OTP-2045-0805-R01 at 0819-0820, paras. 87-89, 92 (Fr).

²¹⁸ **P-1263:** CAR-OTP-2054-0616-R01 at 0632-0633, paras. 92-102 (Eng); CAR-OTP-2045-0805-R01 at 0820-0822, paras. 92-105 (Fr).

²¹⁹ **P-1263:** CAR-OTP-2045-0805-R01 at 0821-822, para. 101 (Fr); **Annexes 2, 3, 7:** CAR-OTP-2045-0855, CAR-OTP-2045-0856, CAR-OTP-2045-0863.

²²⁰ **P-1263:** CAR-OTP-2045-0805-R01 at 0821, 0826-827, paras. 97-100, 131-132 (Fr); **Annex 6:** CAR-OTP-2045-0859-R01.

²²¹ **P-1427:** CAR-OTP-2051-0180-R01 at 0183-0184, paras. 13-33 (Eng); CAR-OTP-2043-0363-R01 at 0365-0367, paras. 13-33 (Fr); **P-1424:** CAR-OTP-2043-0306-R01 at 0308-0309, paras. 16-27 (Fr); Annex A, CAR-OTP-2043-0312

²²² **P-1424:** CAR-OTP-2043-0306-R01 at 0308-0309, paras. 16-21 (Fr).

²²³ **P-1523:** CAR-OTP-2134-2637-R01 at 2641, paras. 24-28 (Fr).

²²⁴ **P-1523:** CAR-OTP-2134-2637-R01 at 2641, para. 25 (Fr). P-1523’s account is corroborated by various items, including: (1) [REDACTED] (CAR-OTP-2005-3227-R01 at 3230-3232); (2) [REDACTED] (CAR-OTP-2045-1016, CAR-OTP-2045-1017, CAR-OTP-2045-1018, CAR-OTP-2005-3227-R01 at 3236); (3) [REDACTED] (**P-1297:** CAR-OTP-2039-0167-R01 at 0173-0175, paras. 44-45, 53 (Eng)); (4) [REDACTED] (**Incident Notebook:** CAR-OTP-2039-0184-R01 at 0192-0193; **List of Victims:** CAR-OTP-2039-0213-R01 at 0213, entry 5); and (5) [REDACTED] (CAR-OTP-2002-2706-R01; CAR-OTP-2005-3227-R01).

²²⁵ **P-1297:** CAR-OTP-2039-0167-R01 at 0175, paras. 52-54 (Eng); CAR-OTP-2107-1354-R01 at 1363, paras. 52-54 (Fr). *See also* **P-2087:** CAR-OTP-2074-2965-R01 at 2975, para. 66 (Eng); CAR-OTP-2130-2320-R01 at 2332, para. 66 (Fr); **P-0100:** CAR-OTP-2027-2535-R01 at 2547, 2552, paras. 69-71, 101-105 (Eng); CAR-OTP-2118-6331-R01 at 6345-6346, 6351, paras. 69-71, 101-105 (Fr).

²²⁶ **P-2179:** CAR-OTP-2130-2342-R01 at 2348-2369, paras. 25-120 (Fr); **P-0547:** CAR-OTP-2018-0389-R01 at 0394-0395, 0403-0404, 0412, 0415, paras. 29-41, 101-104, 170, 194 (Fr).

FACA members, P-2179 and his neighbour, [REDACTED].²²⁷ A Seleka element told them that they had come to Boy Rabe to arrest “every FACA,” because they accused the FACA of being involved in the recent shelling of the National Assembly.²²⁸ [REDACTED].²²⁹ [REDACTED].²³⁰

d) Assault on male passengers taken from a minibus at the PK9 checkpoint in Bangui, on or around 13 July 2013

70. On or around 13 July 2013, the Seleka attacked the passengers of a minibus in the PK9 area of Bangui, arbitrarily arresting at least six male passengers,²³¹ apparently because BOZIZE t-shirts were found in the vehicle.²³² [REDACTED].²³³ Within a day or two, dead bodies were found floating in the Oubangui river, tied up.²³⁴ [REDACTED],²³⁵ [REDACTED] [REDACTED].²³⁶

²²⁷ **P-2179:** CAR-OTP-2130-2342-R01 at 2348-2350, 2356, 2358, paras. 27-32, 60-61, 71-74 (Fr); *See also* **P-0100:** CAR-OTP-2118-6331-R01 at 6346, para. 71 (Fr).

²²⁸ **P-2179:** CAR-OTP-2088-2250-R01 at 2257, para. 34.

²²⁹ **P-2179:** CAR-OTP-2088-2250-R01 at 2262, para. 62.

²³⁰ **P-2179:** CAR-OTP-2088-2250-R01 at 2264-2265, paras. 70-74.

²³¹ The known victims include: (1) [REDACTED] (*see, e.g., Complaint:* CAR-OTP-2005-3453-R01 (complaint submitted by [REDACTED]); **Morgue Records:** CAR-OTP-2044-0573 at 0634; **CMDE List:** CAR-OTP-2009-3587 at 3623-3624; (2) [REDACTED] (*see, e.g., P-0491:* CAR-OTP-2013-0678-R01 at 0680-0682, paras. 13-28 (Eng); **P-0491, Annex 3:** CAR-OTP-2013-0688; **Morgue Records:** CAR-OTP-2044-0573 at 0634; **Primature report:** CAR-OTP-2101-1549 at 1551; **BINUCA Press Release:** CAR-OTP-2034-2340; **CMDE report:** CAR-OTP-2116-0367-R01 at 0367; **P-0529:** CAR-OTP-2041-0031-R01 at 0034, para. 22 (Eng); **P-0358:** CAR-OTP-2043-0433-R01 at 0448, para. 104; **Complaint:** CAR-OTP-2027-1822-R01; (3) [REDACTED] (*see, e.g., Primature report:* CAR-OTP-2101-1549 at 1549; **P-0529:** CAR-OTP-2041-0031-R01 at 0034, 0037-0038, para. 22, 43-47 (Fr); **Complaint:** CAR-OTP-2005-0949-R01 at 0951); (4) [REDACTED]) (*see, e.g., P-0529:* CAR-OTP-2041-0031-R01 at 0034, 0037-0038, para. 22, 43-47 (Fr); **Morgue Records:** CAR-OTP-2044-0573 at 0634; **P-0358, Annex 2:** CAR-OTP-2043-0605 at 0607, entries 108-109; **Primature report:** CAR-OTP-2101-1549 at 1551; **P-0358:** CAR-OTP-2043-0433-R01 at 0448, para. 103 (Eng); **Complaint:** CAR-OTP-2005-0949-R01 at 0951); (5) [REDACTED]; and (6) [REDACTED] (*see, e.g., Primature report:* CAR-OTP-2101-1549 at 1550-1551; **CMDE report:** CAR-OTP-2116-0367-R01 at 0368. Some accounts indicate there were [REDACTED] passengers abducted and killed. *See* **P-0529:** CAR-OTP-2041-0031-R01 at 0038, para. 46 (Fr); **P-2573:** CAR-OTP-2130-5230-R01 at 5248-5249, paras. 64-67 (Fr). Another possible victim is [REDACTED]. *See* **MINUSCA Investigation Note:** CAR-OTP-2034-0219.

²³² *See, e.g., P-2573:* CAR-OTP-2130-5230-R01 at 5248-5249, paras. 64-67 (Fr); **P-0529:** CAR-OTP-2041-0031-R01 at 0035, para. 24 (Fr); **P-0358:** CAR-OTP-2043-0433-R01 at 0447, para. 96 (Eng); **P-0834:** CAR-OTP-2029-0248-R01 at 0256-0257, para. 55 (Fr); **UN Mapping Project Report:** CAR-OTP-2055-1987 at 2114; **AI Report:** CAR-OTP-2001-1767 at 1786; **CMDE report:** CAR-OTP-2116-0367-R01 at 0368; **Intelligence Notes:** CAR-OTP-2102-0614-R02 at 0624.

²³³ **P-2573:** CAR-OTP-2130-5230-R01 at 5249-5250, paras. 69-72 (Fr); **Annex B to P-2573's Statement:** CAR-OTP-2119-0560 at 0560.

²³⁴ **P-1808:** CAR-OTP-2135-2185-R01 at 2189-2190, paras. 25-32 (Fr); **P-0510:** CAR-OTP-2017-0835-R01 at 0852-0853, Exhibits 15-18 (Eng); CAR-OTP-2104-0996-R01 at 1016, Exhibits 15-18 (Fr); Exhibits 15-18: CAR-OTP-2017-0919; CAR-OTP-2017-0920; CAR-OTP-2017-0921; CAR-OTP-2017-0922; **Intelligence Notes:** CAR-OTP-2102-0614-R02 at 0624. *See also* **P-0358:** CAR-OTP-2043-0433-R01 at 0447-0448, paras. 96-104 (Eng); **Annex 2:** CAR-OTP-2043-0605 at 0607.

²³⁵ **P-1808:** CAR-OTP-2135-2185-R01 at 2189-2190, paras. 25-32 (Fr).

²³⁶ **P-0510:** CAR-OTP-2017-0835-R01 at 0852-0853, para. 54, Exhibits 15-18 (Eng).

71. [REDACTED],²³⁷ and they describe identifying the bodies of their relatives at the morgue. Other evidence—such as the forensic medical report conducted on P-0491’s relative, and morgue ledgers—suggests that the victims were tortured prior to their death.²³⁸ Despite the notoriety of the incident,²³⁹ no meaningful investigation ensued, and the Prosecution has not discovered any indication that anyone was ever charged or held responsible for these murders.²⁴⁰

e) Imprisonment, Torture, Other Inhumane Acts, and Persecution at the CEDAD from mid-September to 8 November 2013

72. From mid-September 2013 to 8 November 2013, the Seleka unlawfully detained and mistreated perceived BOZIZE supporters at the CEDAD, an intelligence bureau established by DJOTODIA on 25 May 2013²⁴¹ and later transformed into a secret detention centre by ADAM who was its Director-General from 22 August 2013.²⁴²
73. Following the Seleka’s departure from the OCRB on 30 August 2013,²⁴³ many of the OCRB Seleka commanders²⁴⁴ and their elements²⁴⁵ were transferred to the CEDAD where a similar hierarchical structure as the OCRB was adopted.²⁴⁶ During this period,

²³⁷ **P-0529:** CAR-OTP-2051-0159-R01 at 0163-0167, paras. 21-45 (Eng); **P-0491:** CAR-OTP-2013-0678-R01 at 0681, paras. 17-18 (Eng).

²³⁸ **P-0491, Annex 3 (Forensic Medical Report):** CAR-OTP-2013-0688; **Morgue Records:** CAR-OTP-2044-0573 at 0634 ([REDACTED]); **P-0358 (Annex 2):** CAR-OTP-2043-0605 at 0607, entries 108-109 ([REDACTED]). See also **BINUCA Press Release:** CAR-OTP-2034-2340.

²³⁹ **BINUCA Press Release:** CAR-OTP-2034-2340; **Media Article:** CAR-OTP-2005-5424-R01 at 5425 (press article); **Media Article:** CAR-OTP-2001-3996; **Media Article:** CAR-OTP-2008-0002 at 0004; **P-0358:** CAR-OTP-2043-0433-R01 at 0447, para. 96 (Eng) (referencing an announcement on the radio); **P-0491:** CAR-OTP-2013-0678-R01 at 0682, paras. 23-25 (Eng) ([REDACTED]).

²⁴⁰ There is indication that the CAR judiciary initiated investigations—see, e.g., CAR-OTP-2101-3288—but no indication that these were meaningfully progressed. See **P-0291:** CAR-OTP-2013-0403-R01 at 0411, paras. 55-58 (Eng). See also **AI Report:** CAR-OTP-2001-1767 at 1786 (reporting, as of October 2013, no identification or arrest of the soldiers responsible for the crime); **P-0491:** CAR-OTP-2013-0678-R01 at 0682, paras. 23-25 (Eng).

²⁴¹ **CAR Decree No. 13.118:** CAR-OTP-2004-1385 at 1417-1419.

²⁴² **CAR Decree 13.297:** CAR-OTP-2005-0368; CAR-OTP-2064-0256. See also **P-2240:** CAR-OTP-2107-8860-R01 at 8870-8871, para. 44 (Eng); **P-1420:** CAR-OTP-2040-0811-R01 at 0825, para. 86 (Eng); **P-0291:** CAR-OTP-2024-0036-R01 at 0049, para. 79 (Fr).

²⁴³ See *infra*, paras. 121, 128, 282.

²⁴⁴ **P-2105:** CAR-OTP-2078-0003-R01 at 0024-0025, paras. 128-129 (Fr); **P-2105** CAR-OTP-2081-0037-R01 at 0045-0047, paras. 46, 60 (Fr); **P-1167:** CAR-OTP-2094-0002-R01 at 0027, para. 153 (Eng); **P-1004:** CAR-OTP-2043-0536-R01 at 0544-0545, 0547, paras. 55, 66-69, 81 (Eng); DAMBOUCHA is listed as Nr. 19 in Liste des Elements: CAR-OTP-2023-0646-R01

²⁴⁵ **P-1420:** CAR-OTP-2040-0811-R01 at 0825-0826, paras. 86, 95 (Eng); **P-1004:** CAR-OTP-2043-0536-R01 at 0543, 0547-0549, paras. 53-54, 81-82, 84-91, 94, 96-97 (Eng); **P-1167:** CAR-OTP-2094-0002-R01 at 0027, paras. 152-155 (Eng); **P-2105:** CAR-OTP-2084-0191-R01 at 0211, paras. 116-117 (Eng).

²⁴⁶ **P-1167:** CAR-OTP-2094-0002-R01 at 0027, para. 153 (Eng). See also **P-1004:** CAR-OTP-2043-0536-R01 at 0544, paras. 55-56 (Eng); **P-2105:** CAR-OTP-2084-0191-R01 at 0212, para. 119 (Eng). See also **P-2240:** CAR-OTP-2107-8860-R01 at 8871, para. 47 (Eng).

the Seleka arrested perceived BOZIZE supporters and brought them into the CEDAD for interrogation and mistreatment,²⁴⁷ as described below. As one insider states, “[t]he *modus operandi* of the CEDAD was in every respect similar to that followed by [ADAM] at the OCRB”.²⁴⁸

74. When the Seleka arrested the prisoners, they did not inform them of their destination²⁴⁹ or the reasons for their arrest.²⁵⁰ The arrests were carried out in a forcible manner, including at gun-point.²⁵¹ Upon their arrest, the prisoners were hooded and placed in a vehicle.²⁵² [REDACTED].²⁵³ When the prisoners arrived at the CEDAD, they were placed in overcrowded cells,²⁵⁴ which had no window²⁵⁵ or toilet.²⁵⁶ [REDACTED], some prisoners were handcuffed for weeks,²⁵⁷ and no medical attention was provided, even in cases of detainees suffering medical conditions.²⁵⁸
75. The Seleka further tortured and mistreated the prisoners at the CEDAD, including with the involvement of ADAM and other Seleka commanders.²⁵⁹ For example, P-0664 states that he was hooded and beaten severely by the Seleka in front of [REDACTED] who accused the witness of being an informant of BOZIZE.²⁶⁰ On another occasion, the

²⁴⁷ **P-0664:** CAR-OTP-2023-1339-R01 at 1342-1346, paras. 26-63, at 1353-1354, paras. 140, 142, 151 (Eng); **P-0662:** CAR-OTP-2099-0336-R01 at 0339, para. 17, at 0343-0351, paras. 29-55; **P-1004:** CAR-OTP-2043-0536-R01 at 0544-0545, paras. 60, 66-69 (Eng); **P-1420:** CAR-OTP-2040-0811-R01 at 0826, para. 94 (Eng).

²⁴⁸ **P-2105:** CAR-OTP-2084-0191-R01 at 0212, para. 119 (Eng).

²⁴⁹ **P-0664:** CAR-OTP-2023-1339-R01 at 1341-1343, paras. 18-34 (Eng); **P-0662:** CAR-OTP-2099-0336-R01 at 0344-0345, paras. 30-34, at 0350, para. 52 (Eng).

²⁵⁰ **P-0664:** CAR-OTP-2023-1339-R01 at 1341-1343, paras. 18-30 (Eng); **P-0662:** CAR-OTP-2099-0336-R01 at 0344-0345, paras. 30-34 (Eng).

²⁵¹ **P-0664:** CAR-OTP-2023-1339-R01 at 1342, para. 24 (Eng).

²⁵² **P-0662:** CAR-OTP-2099-0336-R01 at 0343-0345, paras. 29-34 (Eng); **P-0664:** CAR-OTP-2023-1339-R01 at 1342, paras. 24-25 (Eng); **P-2105:** CAR-OTP-2084-0191-R01 at 0211-0213, paras. 117, 122, 124, 130 (Eng). *See also* **P-1004:** CAR-OTP-2043-0536-R01 at 0544, paras. 60-61 (Eng); **P-2240:** CAR-OTP-2107-8860-R01 at 8870-8871, para. 44 (Eng);

²⁵³ **P-0662:** CAR-OTP-2099-0336-R01 at 0345, para. 32 (Eng).

²⁵⁴ **P-0664:** CAR-OTP-2023-1339-R01 at 1345, para. 56, at 1346, para. 64 (Eng); **Correspondence:** CAR-OTP-2023-1362-R01 at 1366; **P-0662:** CAR-OTP-2099-0336-R01 at 0347, para. 39 (Eng).

²⁵⁵ **P-0664:** CAR-OTP-2023-1339-R01 at 1346, para. 65, at 1347, para. 80 (Eng); **P-0662:** CAR-OTP-2099-0336-R01 at 0347, para. 38 (Eng).

²⁵⁶ **P-0664:** CAR-OTP-2023-1339-R01 at 1347, para. 77 (Eng); **Correspondence:** CAR-OTP-2023-1362-R01 at 1366; **P-0662:** CAR-OTP-2099-0336-R01 at 0346, para. 36 (Eng).

²⁵⁷ **P-0664:** CAR-OTP-2023-1339-R01 at 1345, paras. 53-54 (Eng).

²⁵⁸ **P-0664:** CAR-OTP-2023-1339-R01 at 1345, para. 55 (Eng); **Correspondence:** CAR-OTP-2023-1362-R01 at 1366.

²⁵⁹ **P-1004:** CAR-OTP-2043-0536-R01 at 0545, paras. 66-69 (Eng). *See also* **P-2240:** CAR-OTP-2107-8860-R01 at 8870-8871, paras. 44-45 (Eng).

²⁶⁰ **P-0664:** CAR-OTP-2023-1339-R01 at 1342-1345, paras. 29-49 (Eng).

Seleka accused P-0662 of being [REDACTED] and handcuffed and whipped him across the back [REDACTED].²⁶¹ The abuse was so severe that P-0662 lost consciousness.²⁶²

2. The Seleka attacked a civilian population

76. The population constituting the object of the Seleka attack was civilian in character. This is not contradicted by the fact that some of the persons arrested and detained at the OCRB or during the Additional Incidents may have opposed the Seleka regime, one way or another. In carrying out prohibited article 7(1) acts, the Seleka made no consistent distinction between persons, irrespective of whether they might reasonably have been members of the pro-BOZIZE forces or merely political supporters or former government employees or none of these things and merely bystanders.²⁶³ The Seleka targeted the civilian population in Bangui perceived to support BOZIZE in order to suppress and prevent resistance and stay in power.
77. Similarly, even among those detained at the OCRB or the CEDAD, many were not members of the pro-BOZIZE forces. In a number of cases, the victims clearly had long-standing occupations (e.g., [REDACTED], and so on) which were inconsistent with any suspicion that they might have been former FACA members or Presidential Guards under BOZIZE. Nor was there any indication that any victim of the charged crimes was directly participating in hostilities at the time of their arrest. Rather, victims frequently possessed characteristics that were perceived to be associated with support for BOZIZE.

3. The Seleka acted pursuant to, and in furtherance of, a State or organisational policy

78. The Seleka attack on the civilian population was not spontaneous or a mere accumulation of isolated acts of violence. Rather, the attack was carried out pursuant to, and in furtherance of, a State or organisational policy to commit an attack against the civilian population in Bangui perceived to be BOZIZE supporters.²⁶⁴
79. The attack was the intended outcome of a policy devised by the Seleka and executed by Seleka government officials and elements. It was aimed at keeping the Seleka in power, by violent means if necessary. The existence of this policy is demonstrated by (a) the

²⁶¹ **P-0662**: CAR-OTP-2099-0336-R01 at 0348, para. 43 (Eng).

²⁶² **P-0664**: CAR-OTP-2023-1339-R01 at 1345, para. 52 (Eng).

²⁶³ See, e.g., **P-1289**: CAR-OTP-2127-7632-R01 at 7636, para. 20 (Fr).

²⁶⁴ See Ongwen TJ, paras. 2678-2679.

consistent pattern of violence against civilians; (b) the fact that senior Seleka leaders like ADAM and SAID coordinated the policy and participated in its execution, including at OCRB, CEDAD, and during the Boy Rabe operations; and (c) the Seleka's open statement of intent to target perceived BOZIZE supporters.

a) The Seleka's consistent pattern of violence against civilians

80. That the Seleka had a policy to commit an attack against the above-described civilian population is demonstrated first and foremost by the consistent pattern of violence against civilians. After taking over Bangui, the Seleka conducted search operations in areas of Bangui considered to be supportive of BOZIZE, such as the 4th *arrondissement* — in particular the Boy Rabe neighbourhood²⁶⁵ — and the 7th *arrondissement*.²⁶⁶ These areas were greatly impacted as a result, [REDACTED] thousands of residents fled their neighbourhoods due to the Seleka's conduct.²⁶⁷
81. During the Seleka's search operations, they claimed to be looking for weapons and individuals engaged in the ongoing hostilities.²⁶⁸ They also sometimes clashed with pro-BOZIZE forces, as noted above.²⁶⁹ However, the Seleka's overall conduct demonstrated that the attack was directed against the civilian population.
82. The attack included the targeting of people that, in this socio-cultural context, were highly unlikely to be taking direct part in hostilities, such as the elderly, women, and young children. For example, in relation to the targeting of older men, during the 14-16 April Boy Rabe attack, [REDACTED] [REDACTED].²⁷⁰ The Seleka also shot at [REDACTED] men in their late sixties, an advanced age in the CAR context.²⁷¹ Children

²⁶⁵); **P-1420:** CAR-OTP-2040-0811-R01 at 0830, paras. 116-117 (Eng); **P-0100:** CAR-OTP-2027-2535-R01 at 2539-2540, paras. 22, 27-28 (Eng); **P-0435:** CAR-OTP-2017-0036-R01 at 0060, para. 138 (Eng); **OHCHR interim report:** CAR-OTP-2001-0172 at 0183, para. 54 (Eng).

²⁶⁶ **P-0312:** CAR-OTP-2122-3598-R01 at 3603-3605, paras. 23-28, 37 (Fr); **P-1289:** CAR-OTP-2127-7632-R01 at 7637, paras. 22-23 (Fr); **P-0882:** CAR-OTP-2032-0654-R01 at 0659-0661, paras. 27-42 (Eng); *See also* **P-1420:** CAR-OTP-2040-0811-R01 at 0830, para. 117 (Eng).

²⁶⁷ **P-0100:** CAR-OTP-2027-2535-R01 at 2553, para. 111 (Eng); **P-0119:** CAR-OTP-2107-1295-R01 at 1318, para. 143 (Fr).

²⁶⁸ *See supra*, paras. 61, 65.

²⁶⁹ *See supra*, para. 46 (citing sources).

²⁷⁰ **P-1825:** CAR-OTP-2079-0315-R01 at 0322, para. 38 (Eng).

²⁷¹ *See supra*, paras. 58, 67.

and women were similarly targeted, including during the Seleka's operations in the 7th *arrondissement*²⁷² and in Boy Rabe.²⁷³

83. Furthermore, the attack included the commission of acts that inherently have no possible legitimate aim, even in times of war, such as rapes and looting.²⁷⁴ [REDACTED].²⁷⁵
84. In addition to murders, rapes, and looting, the Seleka also arbitrarily arrested perceived BOZIZE supporters during this period. For example, as discussed elsewhere in this brief, the Seleka arrested people suspected of carrying peaceful protest flyers, people riding on a minibus where BOZIZE t-shirts were found, and people who merely resided in certain areas. In relation to the latter, as P-0119 saw it, "[a]ny young man found on the street in Boy Rabe, was accused of being a BOZIZE supporter, just for being from Boy Rabe."²⁷⁶
85. The Seleka's pattern of violence against civilians included, on many occasions, the targeting of entire neighbourhoods rather than particular individuals. A few days before one of the large-scale attacks on Boy Rabe, ADAM's Cabinet Director warned the chiefs of the 4th *arrondissement* at a public meeting that the whole area would be targeted for attack, in retaliation for a recent show of resistance by pro-BOZIZE forces.²⁷⁷ [REDACTED].²⁷⁸ [REDACTED].²⁷⁹ A day or two after that meeting, the Seleka attacked Boy Rabe, "firing their weapons at everyone."²⁸⁰ [REDACTED].²⁸¹ As he put it, "[t]he Seleka looted, tortured, raped and killed many people, punishing the entire community in retaliation for the actions of the few responsible individuals."²⁸²

b) The involvement of key Seleka leaders, including Government ministers, in the attack

87. A further indication of the State policy or organisational policy is the direct involvement of Seleka leaders, including Seleka with high-ranking posts in the CAR government, throughout the planning, directing, organisation and implementation of the attack.

²⁷² See e.g., **P-0881: CAR-OTP-2032-0682-R01** at 0692, para. 69 (Eng).

²⁷³ See *supra*, paras. 58-60, 62-63, 66; **P-0119: CAR-OTP-2032-0753-R01** at 0764-0765, paras. 75-83, 0767, para. 95.

²⁷⁴ See *supra*, paras. 63-65; **P-1524: CAR-OTP-2062-0468-R01** at 0483, paras. 76-77 (Eng).

²⁷⁵ **P-1313: CAR-OTP-2130-5284-R01** at 5290, para. 34 (Fr).

²⁷⁶ **P-0119: CAR-OTP-2032-0753-R01** at 0762, para. 66 (Eng).

²⁷⁷ **P-0100: CAR-OTP-2027-2535-R01** at 2542-2543, paras. 40-44 (Eng).

²⁷⁸ **P-0100: CAR-OTP-2027-2535-R01** at 2543, para. 44 (Eng).

²⁷⁹ *Id.*

²⁸⁰ **P-0100: CAR-OTP-2027-2535-R01** at 2543, para. 46 (Eng).

²⁸¹ **P-0100: CAR-OTP-2027-2535-R01** at 2543, para. 47 (Eng).

²⁸² **P-0100: CAR-OTP-2027-2535-R01** at 2552, para. 99 (Eng); see also **P-0435: CAR-OTP-2017-0036-R01** at 0060, para. 142 (Eng) ([REDACTED]).

88. As discussed below, senior Seleka commanders, including **SAID** and his superior, **ADAM**, oversaw the operations of the OCRB, where perceived BOZIZE supporters were imprisoned and tortured. Both **SAID** and **ADAM** were involved in arrests and interrogations.²⁸³
89. Similarly, the above-described operations in Boy Rabe were planned, approved, and personally overseen by the most senior Seleka leaders, as confirmed by P-1420, [REDACTED].²⁸⁴ Other key Seleka insiders implicate **SAID** as a participant in at least one, if not both, of the large-scale Boy Rabe operations.²⁸⁵
90. The Seleka commanders who were identified as involved in the Boy Rabe operations came from all parts of the Seleka coalition and included: **DJOTODIA**,²⁸⁶ **ADAM**,²⁸⁷

²⁸³ See *infra*, §III(B), esp. III(B)(2); **P-2504**: CAR-OTP-2107-8430-R01 at 8439-8440, paras. 48-54 (Fr); **P-2105**: CAR-OTP-2081-0037-R01 at 0043, para. 30 (Fr); **P-1737**: CAR-OTP-2130-2086-R01 at 2098-2099, paras. 58-59 ([REDACTED]), at 2100, para. 64 ([REDACTED]) (Fr); **P-2692**: CAR-OTP-2125-0922-R01 at 0927-0928, para. 31 (Eng); **P-3056**: CAR-OTP-2130-6639-R01 at 6646-6647, paras. 41-42 (Fr); **P-1289**: CAR-OTP-2127-7632-R01 at 7648-7650, paras. 81-90 (Fr); **P-0481**: CAR-OTP-2104-1024-R01 at 1042, paras. 103-107 (Fr); **P-0622**: CAR-OTP-2022-0121-R01 at 0129, para. 65 (Fr); **P-1429**: CAR-OTP-2049-0166-R01 at 0174, paras. 48, 54 (Eng); **P-2172**: CAR-OTP-2130-6313-R01 at 6316-6317, paras. 21-23 (Fr); **P-2179**: CAR-OTP-2088-2250-R01 at 2270-2271, paras. 102-104 (Eng).

²⁸⁴ **P-1420**: CAR-OTP-2130-1827-R01 at 1848, 1849, paras. 113, 118-121 (Fr); See also **P-0547**: CAR-OTP-2018-0389-R01 at 0393, para. 25 (Fr); **P-0435**: CAR-OTP-2104-0954-R01 at 0981, para. 147 (Fr).

²⁸⁵ Confirmation Decision, para. 60 (“The evidence further supports that Mr Said, a senior Seleka member, was involved in or at least present during both the above-mentioned attacks on Boy Rabe.”); **P-1167**: CAR-OTP-2094-0002-R01 at 0029, paras. 165-166 (Eng); **P-2105**: CAR-OTP-2084-0191-R01 at 0201-0202, paras. 54-61 (Eng); **P-2105**: CAR-OTP-2083-0003-R01 at 0005, para. 7 (Eng). See also **P-0787**: CAR-OTP-2036-0410-R01 at 0417, 0422, paras. 37, 55 (Eng); **P-1429**: CAR-OTP-2049-0166-R01 at 0177-0178, paras. 72-77 (Eng).

²⁸⁶ For April Boy Rabe attack: **P-0119**: CAR-OTP-2032-0753-R01 at 0772, paras. 131-133 (Eng); **P-1264**: CAR-OTP-2036-0065-R01 at 0069, paras. 29-34 (Eng); **P-1825**: CAR-OTP-2079-0315-R01 at 0323, para. 43 (Eng); **P-0100**: CAR-OTP-2027-2535-R01 at 2546, para. 67 (Eng). For August Boy Rabe attack: **P-0547**: CAR-OTP-2025-0566-R01 at 0571, paras. 25-26 (Eng); **P-0547**: CAR-OTP-2084-0036-R01 at 0039, para. 10 (Eng); **P-1297**: CAR-OTP-2039-0167-R01 at 0174-0175, paras. 45-46, 49-52 (Eng). See also **P-1524**: CAR-OTP-2062-0468-R01 at 0488, para.98 (Eng); **P-1563**: CAR-OTP-2087-9352-R01 at 9358, paras. 29-32 (Eng); **P-0435**: CAR-OTP-2017-0036-R01 at 0061, para. 147 (Eng); **P-0100**: CAR-OTP-2027-2535-R01 to 2543, para. 44 (Eng); **Media Article**: CAR-OTP-2030-2330.

²⁸⁷ For April Boy Rabe attack: **P-0119**: CAR-OTP-2032-0753-R01 at 0765, 0772, paras. 85, 131-133 (Eng); **P-1264**: CAR-OTP-2036-0065-R01 at 0069, para.29-34 (Eng); **P-0787**: CAR-OTP-2036-0410-R01 at 0422, para. 55 (Eng); **Media Article**: CAR-OTP-2059-0042 at 0043; **P-0342**: CAR-OTP-2012-0039-R01 at 0047, 0049, para.50-52, 60 (Eng). For August Boy Rabe attack: **P-0547**: CAR-OTP-2025-0566-R01 at 0571, para. 25 (Eng); **P-1167**: CAR-OTP-2094-0002-R01 at 0029, paras. 165-166, 168 (Eng); **P-0662**: CAR-OTP-2099-0336-R01 at 0341-0342, paras. 23-25; **P-1263**: CAR-OTP-2054-0616-R01 at 0624-0638, paras. 45-118, 131 (Eng); **P-1429**: CAR-OTP-2049-0166-R01 at 0177-0178, paras. 72-77 (Eng); **P-1297**: CAR-OTP-2039-0167-R01 at 0174, para. 47-48 (Eng); **P-1970**, CAR-OTP-2087-9396-R01 at 9404-9405, para. 36. See also **P-2042**, CAR-OTP-2074-0002-R01 at 0004-0005, para. 15; **P-1524**: CAR-OTP-2062-0468-R01 at 0488, between paras.97 and 98 (Eng); **P-0435**: CAR-OTP-2017-0036-R01 at 0061, para. 147 (Eng); **P-0100**: CAR-OTP-2027-2535-R01 to 2543, 2547, paras. 44, 68-80 (Eng); **P-1429**: CAR-OTP-2049-0166-R01 at 0176, para. 67 (Eng); **Media article**: CAR-OTP-2030-2330; **P-1427**: CAR-OTP-2051-0180-R01 at 0183-0184, para.13-33 (Eng); **P-2240**: CAR-OTP-2107-8860-R01 at 8870, paras. 41-42 (Eng); **Radio Ndeke Luka**: CAR-OTP-2030-2323; **France 24 Press Release**: CAR-OTP-2050-0989; **RFI Press Release**: CAR-OTP-2059-0046.

DHAFFANE,²⁸⁸ ARDA,²⁸⁹ SAID,²⁹⁰ ALKHATIM,²⁹¹ Moussa ASSIMEH,²⁹² Abdelkarim MOUSSA,²⁹³ MAKAIR,²⁹⁴ Oumarou GARBA,²⁹⁵ and KADER TOM ALKANTO.²⁹⁶

c) The Seleka's open declaration of their policy to target perceived BOZIZE supporters

91. Seleka commanders often openly stated their intent to target anyone considered a BOZIZE supporter, and this sentiment was echoed by Seleka soldiers participating in the attack.²⁹⁷ At the OCRB and the CEDAD, ADAM and SAID directed their subordinates to arrest and mistreat people perceived to be linked to BOZIZE.²⁹⁸ Their subordinates in turn arrested, mistreated and tortured such people, though many were obviously civilians.²⁹⁹ ADAM told detainees brought to the OCRB that they were “animals who support BOZIZE”, and said that “[w]e, the Seleka, we’re going to be running this country for 15 to 20 years, and we’re going to kill the lot of you.”³⁰⁰ These sentiments were echoed by Fadoul AL-BACHAR, another Seleka commander, who told detainees: “you, BOZIZE’s mercenaries, we are going to kill you, one by one.”³⁰¹ One of ADAM’s subordinates,³⁰² Mahamat SALLET, told a

²⁸⁸ For April Boy Rabe attack: **P-0119**: CAR-OTP-2032-0753-R01 at 0765-0766, 0772, paras. 87-92, 131-133 (Eng); **P-1524**: CAR-OTP-2062-0468-R01 at 0477-0478, paras. 43-50 (Eng). *See also* **P-1427**: CAR-OTP-2051-0180-R01 at 0183-0184, para.13-33 (Eng).

²⁸⁹ For August Boy Rabe attack: **P-2179**: CAR-OTP-2088-2250-R01 at 2255-2274, paras. 25-120 (Eng). *See also* **P-2240**: CAR-OTP-2107-8860-R01 at 8870, para. 42 (Eng).

²⁹⁰ For April Boy Rabe attack: **P-0787**: CAR-OTP-2036-0410-R01 at 0417, 0422, paras. 37, 55 (Eng). For August Boy Rabe attack: **P-1167**: CAR-OTP-2094-0002-R01 at 0029, paras. 165-166 (Eng); **P-2105**: CAR-OTP-2083-0003-R01 at 0005, para. 7 (Eng); **P-1429**: CAR-OTP-2049-0166-R01 at 0177-0178, paras. 72-77 (Eng).

²⁹¹ For August Boy Rabe attack: **P-1167**: CAR-OTP-2094-0002-R01 at 0029, para. 167 (Eng); **P-1420**: CAR-OTP-2040-0811-R01 at 0830, para. 121 (Eng).

²⁹² For August Boy Rabe attack: **P-1420**: CAR-OTP-2040-0811-R01 at 0830, para. 121 (Eng). *See also* **P-2573**: CAR-OTP-2119-0532-R01 at 0540-0543, paras. 36-45 (Eng); **P-1563**: CAR-OTP-2087-9352-R01 at 9358-9359, paras. 29-32, 37 (Eng); **P-2240**: CAR-OTP-2107-8860-R01 at 8870, para. 42 (Eng).

²⁹³ For August Boy Rabe attack: **P-1420**: CAR-OTP-2040-0811-R01 at 0830, para. 121 (Eng).

²⁹⁴ **P-2573**: CAR-OTP-2119-0532-R01 at 0540-0543, paras. 36-45.

²⁹⁵ **P-2573**: CAR-OTP-2119-0532-R01 at 0540, paras. 36-37, at 0542, para. 45 (Eng).

²⁹⁶ **P-2573**: CAR-OTP-2119-0532-R01 at 0540, paras. 36-37, at 0541, para. 41, at 0542, para. 44 (Eng).

²⁹⁷ *See, e.g.*, **P-0622**: CAR-OTP-2022-0121-R01 at 0128-0129, paras. 54, 65 (Fr); **P-0100**: CAR-OTP-2032-0753-R01 at 0759, 0765, paras. 37, 85 (Eng); **P-1563**: CAR-OTP-2087-9352-R01 at 9357-9358, paras. 28, 30 (Eng); **P-2042**: CAR-OTP-2074-0002-R01 at 0004-0005, paras. 15-17; **P-0787**: CAR-OTP-2036-0410-R01 at 0416-0417, 0422, paras. 31, 37, 55 (Eng).

²⁹⁸ *See supra*, paras. 72-75; *see infra*, §III(B), esp. III(B)(2), para. 122; *see also* **P-1420**: CAR-OTP-2040-0811-R01 at 0826, para. 94 (Eng); **P-0622**: CAR-OTP-2022-0121-R01 at 0129, paras. 64-65 (Fr).

²⁹⁹ *See* **P-0622**: CAR-OTP-2029-0210-R01 at 0218-0220, paras. 54-84 (Eng); **P-1737**: CAR-OTP-2055-0137-R01 at 0148, paras. 58-59 (Eng).

³⁰⁰ **P-0622**: CAR-OTP-2029-0210-R01 at 0219, para. 65 (Eng).

³⁰¹ **P-0547**: CAR-OTP-2025-0566-R01 at 0573, para. 38 (Eng).

³⁰² **P-0481**: CAR-OTP-2018-0530-R01 at 0538, para. 51 (Eng).

detainee that he had arrested him because he had worked for BOZIZE's government.³⁰³

92. Seleka leaders repeatedly threatened retaliation against the Boy Rabe neighbourhood. Even before the Seleka took over Bangui, Seleka commanders instructed their elements that they should "burn Boy Rabe and everyone in it, as its residents were BOZIZE loyalists."³⁰⁴ In the early period of the Seleka regime, [REDACTED]."³⁰⁵ [REDACTED]."³⁰⁶ [REDACTED]."³⁰⁷
93. ADAM and DJOTODIA also gave speeches on the radio that mentioned Boy Rabe and its residents in a way that led its residents to panic about an impending attack.³⁰⁸ [REDACTED].³⁰⁹ Around this time, in the early months of the Seleka government, [REDACTED]."³¹⁰
94. Later in the year, after shots were fired at the National Assembly in advance of DJOTODIA's investiture ceremony in August 2013, [REDACTED]."³¹¹ [REDACTED].³¹¹

4. The acts charged as a crime against humanity were committed as part of a widespread and systematic attack directed against the civilian population

95. The acts charged as crimes against humanity and described further below³¹² were committed as part of an attack on the civilian population that was both widespread and systematic.

a) The attack was systematic

96. The attack was perpetrated in a systematic manner. The crimes comprising the attack were not committed at random. The crimes at OCRB were 1) planned, coordinated, and overseen by Seleka commanders; (2) executed by the Seleka according to a consistent pattern, involving the same targeted victims and a similar *modus operandi*; and (3) committed by the Seleka against many people on a regular basis over a sustained period

³⁰³ **P-1289:** CAR-OTP-2127-7632-R01 at 7641, paras. 42-43 (Fr).

³⁰⁴ **P-0119:** CAR-OTP-2032-0753-R01 at 0759, para. 37.

³⁰⁵ **P-2042:** CAR-OTP-2074-0002-R01 at 0004-0005, para. 15 (Eng).

³⁰⁶ **P-0119:** CAR-OTP-2032-0753-R01 at 0765, para. 85 (Eng). [REDACTED]. See **P-0119:** CAR-OTP-2032-0753-R01 at 0760-0761, paras. 50-55.

³⁰⁷ **P-1563:** CAR-OTP-2087-9352-R01 at 9358, para. 30 (Eng).

³⁰⁸ **P-0100:** CAR-OTP-2027-2535-R01 at 2541-2542, para. 39 (Eng).

³⁰⁹ See *supra*, para. 85.

³¹⁰ **P-1970:** CAR-OTP-2087-9396-R01 at 9404, para. 34 (Eng).

³¹¹ **P-2087:** CAR-OTP-2074-2965-R01 at 2972, paras. 43-44 (Eng).

³¹² See *infra*, § III(B)(2).

of time, more than 5 months. The acts of violence that occurred in the Additional Incidents also demonstrated advance planning and/or coordination by Seleka leaders, targeted the same types of civilians, and resulted in many victims.

(i) Planning and Coordination

97. As described elsewhere in this document,³¹³ Prosecution witnesses describe seeing Seleka commanders overseeing the commission of crimes against the civilian population perceived to support BOZIZE. Of particular note, **SAID**, **ADAM**, and other Seleka commanders were present and active on a regular basis at the OCRB and the CEDAD, where many perceived BOZIZE supporters were imprisoned and tortured.
98. Similarly, during the Boy Rabe operations, as set out above, Prosecution witnesses saw Seleka commanders physically present, commanding their elements.³¹⁴ Both operations were conducted on a large scale, involving hundreds of Seleka elements.³¹⁵ P-1825, a Boy Rabe resident [REDACTED], estimated that around 100 Seleka elements were on the ground looting that day.³¹⁶ P-1825 further stated that every time one vehicle was full, the Seleka already had another vehicle waiting to load more goods.³¹⁷
99. Throughout the attack, the Seleka took steps to ensure that their criminal actions would target perceived BOZIZE supporters in Bangui, and not civilians perceived to support the Seleka, such as Muslims. For example, during the Seleka's incursions into certain neighbourhoods of Bangui, the Seleka arranged for members of the local population, known as *indicateurs*, to identify the houses of perceived BOZIZE supporters, and then targeted the residents of those houses for crimes.³¹⁸ Notably, Prosecution witnesses observed Muslims and Muslim houses deliberately being spared from looting or other harm.³¹⁹

³¹³ See *supra*, paras. 58-70; see *infra*, Section III (Individual Criminal Responsibility); see also **P-2241**: CAR-OTP-2127-9409-R01 at 9422-9424, paras. 61-67 (Fr).

³¹⁴ See *supra*, paras. 61, 65; **P-0100**: CAR-OTP-2027-2535-R01 at 2562, para. 161 (Eng).

³¹⁵ **P-1524**: CAR-OTP-2130-1902-R01 at 1908, para. 28 (Fr).

³¹⁶ **P-1825**: CAR-OTP-2079-0315-R01 at 0320, para. 30 (Eng).

³¹⁷ **P-1825**: CAR-OTP-2079-0315-R01 at 0320, para. 30 (Eng).

³¹⁸ **P-0119**: CAR-OTP-2032-0753-R01 at 0767, para. 96 (Eng); **P-1420**: CAR-OTP-2040-0811-R01 at 0831, para. 125 (Eng); **P-0100**: CAR-OTP-2027-2535-R01 at 2547-2548, para. 73 (Eng); **P-1313**: CAR-OTP-2038-0098-R01 at 0104, para. 44 (Eng); **P-1825**: CAR-OTP-2079-0315-R01 at 0320, para. 29 (Eng); CAR-OTP-2130-2169-R01 at 2175, para. 29 (Fr).

³¹⁹ **P-1825**: CAR-OTP-2079-0315-R01 at 0320, para. 29 (Eng); **P-0119**: CAR-OTP-2032-0753-R01 at 0767-0769, 0771, paras. 99-103, 113, 123-128 (Eng); See also **P-1524**: CAR-OTP-2062-0468-R01 at 0479, paras. 53-55 (Eng).

100. As another indicator of planning and coordination, according to a standard Seleka practice in this period,³²⁰ the Seleka shut off the electricity and water during the three-day April 2013 operation in Boy Rabe.³²¹ One witness, P-1524, watched as the Seleka purposely fired at the electrical post in his area of Boy Rabe, cutting off the electrical supply to the residents.³²² This action followed the Seleka's standard practice, reflecting advance planning and organization.

(ii) Consistent Pattern

101. The Seleka used a consistent *modus operandi* when carrying out their crimes. Notably, at the OCRB and the CEDAD, the Seleka regularly used a particular torture method referred to as *arbatachar*, where detainees' arms were tied to their legs behind their backs.³²³ Many Prosecution witnesses describe having been subjected to this method or having witnessed others being tortured this way.³²⁴ Witnesses also saw this method being used during the Additional Incidents.³²⁵

102. As described by both insiders and victims, the Seleka often severely beat prisoners during their arrest³²⁶ and upon their arrival at the OCRB or the CEDAD.³²⁷ At the CEDAD, prisoners were hooded while being transported to and from the compound and often during their interrogations.

(iii) Numerous Victims and Time Period

103. The Seleka attack was sustained over a period of over 8 months. It resulted in a substantial number of victims being subjected to the same type of crimes, an indicator that the crimes committed were not isolated or spontaneous. At the OCRB and the CEDAD alone, the

³²⁰ **P-1420:** CAR-OTP-2130-1827-R01 at 1848, para. 115 (Fr); **P-1297:** CAR-OTP-2107-1354-R01 at 1364, para. 57 (Fr).

³²¹ **P-0100:** CAR-OTP-2118-6331-R01 at 6361-6362, para. 161 (Fr); **P-0119:** CAR-OTP-2107-1295-R01 at 1316, para. 130 (Fr).

³²² **P-1524:** CAR-OTP-2062-0468-R01 at 0475-0476, para. 33 (Eng).

³²³ **P-2239:** CAR-OTP-2104-0918-R01 at 0929, para. 53 (Eng); **P-0622:** CAR-OTP-2022-0121-R01 at 0131, para. 79 (Fr); **P-0338:** CAR-OTP-2130-5761-R01 at 5781, paras. 104-105 (Fr).

³²⁴ See, e.g., **P-0547:** CAR-OTP-2018-0389-R01 at 0397, para. 56 (Fr); **P-1432:** CAR-OTP-2050-0172-R01 at 0175, 0178, paras. 20, 24, 45 (Fr); **P-2400:** CAR-OTP-2130-4712-R01 at 4725, para. 54 (Fr); **P-2239:** CAR-OTP-2130-4729-R01 at 4742-4743, paras. 53-54, 57 (Fr); **P-0338:** CAR-OTP-2068-0244-R01 at 0262, paras. 104-105 (Eng); CAR-OTP-2130-5761-R01 at 5781, paras. 104-105 (Fr); **P-1762:** CAR-OTP-2130-2147-R01 at 2152, para. 23 (Fr).

³²⁵ See *supra*, paras. 58-70 (citing sources for the four Additional Incidents).

³²⁶ **P-1167:** CAR-OTP-2094-0002-R01 at 0020, para. 110 (Eng); **P-2400:** CAR-OTP-2104-0424-R01 at 0428, 0435-0436, paras. 21-22, 55 (Eng); **P-2179:** CAR-OTP-2088-2250-R01 at 2255-2256, para. 30 (Eng).

³²⁷ **P-1167:** CAR-OTP-2094-0002-R01 at 0020, para. 111 (Eng); **P-2241:** CAR-OTP-2092-3851-R01 at 3863, 3865-3866, paras. 64, 75 (Eng); **P-2239:** CAR-OTP-2104-0918-R01 at 0930, para. 56 (Eng).

Seleka imprisoned, at a minimum, over 90 people and tortured over 30 people.³²⁸ Furthermore, the accounts of Prosecution witnesses establishes that the Seleka murdered over 70 people and raped numerous women during the four other Additional Incidents (which are presented as mere *examples* of the overall attack).³²⁹

104. In addition, the Prosecution's evidence establishes that hundreds of people in areas of Bangui perceived by the Seleka to be inhabited by BOZIZE supporters, particularly the 4th and 7th *arrondissement*, were victims of the Seleka's extensive looting operations.³³⁰ The Seleka's full-scale clearance of these victims' homes deprived them of property essential to their survival, including all of their food, clothing, and means of maintaining themselves and their families. This caused great suffering and had a devastating long-term effect on their lives. As such, while it is understood that pillage is not specifically proscribed as an article 7(1) act, in this case the Seleka's conduct in each instance met the threshold for an "other inhumane act", under article 7(1)(k), as well as an act of persecution, under article 7(1)(h).³³¹

b) The attack was widespread

105. During the charged period, the Seleka's use of violence against civilians in Bangui was not confined to narrowly targeted incidents involving a few people. On the contrary, the widespread nature of the Seleka's attack is demonstrated by (1) the Seleka's repeated use of violence across Bangui, including during major operations targeting entire neighborhoods; (2) the significant period of time over which the crimes were committed; and (3) the number of victims affected. The relevant evidence is discussed above.

³²⁸ See Confirmation Decision (Operative Part), para. 29; **P-0662: CAR-OTP-2099-0336-R01** at 0347, para. 39, at 0348-0349, paras. 42-44 (Eng); **P-0664: CAR-OTP-2023-1339-R01** at 1343, para. 34, at 1348, para. 88 (Eng).

³²⁹ See *supra*, paras. 58-70.

³³⁰ See *supra*, paras. 58-70, 98, esp. 58, 64, 98.

³³¹ See further e.g. K. Ambos, *Treatise on International Criminal Law, Volume II: The Crimes and Sentencing* (Oxford, OUP: 2014), pp. 115-116; C.K. Hall and C. Stahn, 'Other Inhumane Acts,' in O. Triffterer and K. Ambos (eds.), *The Rome Statute of the International Criminal Court: A Commentary*, 3rd ed. (München, Oxford, and Baden-Baden: C.H. Beck, Hart, and Nomos, 2016), pp. 238-239 (mn. 99); *Prosecutor v. Uhuru Muigai Kenyatta*, Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute, 23 January 2012, ICC-01/09-02/11 ("Kenyatta Confirmation Decision"), paras. 278-279. See also E. Schwelb, 'Crimes Against Humanity,' in *British Yearbook of International Law*, Vol. 178, No. 23, (1946), p. 191 (quoting Lauterpacht, "[I]t is not helpful to establish a rigid distinction between offences against life and limb, and those against property. Pillage, plunder, and arbitrary destruction [...] may, in their effects, be no less cruel and deserving of punishment than acts of personal violence. There may, in effect, be little difference between executing a person and condemning him to a slow death of starvation and exposure by depriving him of shelter and means of sustenance"). Cf. *Prosecutor v. Jean-Pierre Bemba Gombo*, Separate Opinion of Judge Van den Wyngaert and Judge Morrison, 8 June 2018, ICC-01/05-01/08-3636-Anx2 ("Bemba AJ Separate Opinion"), para. 63.

5. SAID's knowledge

106. From at least April 2013 until the resignation of DJOTODIA, in January 2014, **SAID** was a senior Seleka leader. By virtue of his position and role, he knew his conduct to be part of the widespread and systematic attack directed against the civilian population in Bangui perceived as BOZIZE supporters. In particular, due to his position and role at the OCRB,³³² and the public notoriety of the Seleka's conduct,³³³ he was well aware of the targeting of perceived BOZIZE supporters.
107. **SAID** also knew about the Seleka's policy of imprisoning and mistreating perceived BOZIZE supporters at the CEDAD since he was stationed there during the relevant period,³³⁴ along with other Seleka who had been involved in the same type of activity at the OCRB, including ADAM, TAHIR, and DAMBOUCHA.
108. Furthermore, as noted above, evidence from Seleka insiders implicates SAID in at least one, if not both, of the Seleka's large-scale operations in Boy Rabe,³³⁵ and also supports the inference that SAID would have at least known about the extensive looting that took

³³² See *infra*, §III (Individual Criminal Responsibility); see also **P-0338**: CAR-OTP-2130-5761-R01 at 5781, para. 106 (Fr).

³³³ See, e.g., **P-0100**: CAR-OTP-2027-2535-R01 at 2561, para. 154 (Eng); **P-0119**: CAR-OTP-2032-0753-R01 at 0763-0764, paras. 73, 78 (Eng); **P-0358**: CAR-OTP-2043-0433-R01 at 0441, para. 54, at 0443, para. 73, at 0447-0448, para. 96-102 (Eng); **P-0481**: CAR-OTP-2018-0530-R01 at 0543 para. 81, at 0544-0545, paras. 93-100; **P-0491**: CAR-OTP-2013-0678-R01 at 0680, para. 14, at 0682, para. 25 (Eng); **P-0529**: CAR-OTP-2051-0159-R01 at 0166, para. 43 (Eng); **P-0547**: CAR-OTP-2025-0566-R01 at 0572, paras. 29-30, at 0578, para. 83 (Eng); **P-0881**: CAR-OTP-2032-0682-R01 at 0696, paras. 97-101 (Eng); **P-1523**: CAR-OTP-2134-2637-R01 at 2639, para. 12, at 2642, para. 31 (Fr); **P-1524**: CAR-OTP-2062-0468-R01 at 0477, para. 44 (Eng); **P-1762**: CAR-OTP-2073-0568-R01 at 0577, para. 50 (Eng); **P-1970**: CAR-OTP-2087-9396-R01 at 9400, para. 16, at 9404, para. 35 (Eng); **P-2172**: CAR-OTP-2130-6313-R01 at 6315, para. 14; **OHCHR interim report**: CAR-OTP-2001-0172 at 0183-0187, paras. 51-79; **HRW Press Release**: CAR-OTP-2001-1759 at 1759-1765; **HRW Report**: CAR-OTP-2001-1870 at 1883, 1927-1941; **Media Article**: CAR-OTP-2000-0066; **AI Report**: CAR-OTP-2001-1767 at 1772, 1782-1794; **Reuter Press Release**: CAR-OTP-2001-3996; **RFI Press Release**: CAR-OTP-2059-0042; **RFI Press Release**: CAR-OTP-2059-0046; **Radio Ndeke Luka**: CAR-OTP-2030-2323; **Media article**: CAR-OTP-2030-2330; **BINUCA Report**: CAR-OTP-2034-0226; **BINUCA Press Release**: CAR-OTP-2034-2340; **MoPS**: CAR-OTP-2034-2344; **France 24 Press Release**: CAR-OTP-2050-0993; **Media Article**: CAR-OTP-2074-0715 at 0719. See also examples of the Seleka commanders using radio to make their announcements: **P-0882**: CAR-OTP-2032-0654-R01 at 0659, para. 24, at 0661-0662, paras. 44-45; **P-1762**: CAR-OTP-2073-0568-R01 at 0571, para. 19 (Eng); **P-1970**: CAR-OTP-2087-9396-R01 at 9400, para. 17 (Eng); **P-0100**: CAR-OTP-2027-2535-R01 at 2541-2542, para. 39-40 (Eng).

³³⁴ **List of CEDAD Seleka**: CAR-OTP-2023-0646-R01 at 0647 (No. 32) (**SAID** is included on a 28 October 2013 list of CEDAD elements; **P-2105**: CAR-OTP-2084-0191-R01 at 0191 at 0211 paras. 116-117, at 0213, paras. 128-130, at 0214, para. 136 (Eng); **P-2105**: CAR-OTP-2083-0003-R01 at 0012, paras. 46-47, at 0013-0014, paras. 53, 57-64 (Eng); **P-1004**: CAR-OTP-2043-0536-R01 at 0544, para. 55, at 0545, paras. 66-69, at 0546, paras. 71-72, 74 (Eng); **P-1167**: CAR-OTP-2094-0002-R01 at 0027, paras. 153, 156 (Eng).

³³⁵ See Confirmation Decision, para. 60 ("The evidence further supports that Mr Said, a senior Seleka member, was involved in or at least present during both the above-mentioned attacks on Boy Rabe."); **P-1167**: CAR-OTP-2094-0002-R01 at 0029, paras 165-166 (Eng); **P-2105**: CAR-OTP-2084-0191-R01 at 0201-0202, paras. 54-61 (Eng); **P-2105**: CAR-OTP-2083-0003-R01 at 0005-0006, paras. 7-8 (Eng). See also **P-0787**: CAR-OTP-2036-0410-R01 at 0417, 0422, para. 37, 55 (Eng); **P-1429**: CAR-OTP-2049-0166-R01 at 0177-0178, paras. 72-77 (Eng).

place, given that household goods were reportedly stored at the OCB afterwords during the period when SAID was stationed there.³³⁶

III. INDIVIDUAL CRIMINAL RESPONSIBILITY

A. Overview of SAID's role at the time relevant to the charges

109. **SAID** is individually responsible for the crimes charged in COUNTS 1 to 7 at the OCB from at least 12 April 2013 until 30 August 2013 by:

- committing those crimes jointly with others (article 25(3)(a)), and
- ordering or inducing those crimes (article 25(3)(b)).³³⁷

110. The evidence submitted by the Prosecution and which will be heard at trial will demonstrate beyond a reasonable doubt that **SAID** was a senior member of the Seleka and had a leading role at the OCB during the period material to the charges. The evidence will further show that ADAM appointed **SAID** as the *de facto* head of the OCB, effectively putting him in charge of this police unit, including all Seleka stationed at the OCB. In this position, **SAID** had full authority over the Seleka elements ("OCB-Seleka") stationed there. In this role, **SAID** oversaw the functioning and conditions of the OCB detention centre. **SAID** exercised control over the Seleka stationed at the OCB, who complied with his instructions. **SAID** provided the OCB Seleka with supplies and ordered the arrest, detention and mistreatment of persons by them. The said persons were targeted on political, ethnic, religious, and/or gender grounds. **SAID** personally participated in arrests and interrogations.

111. These material facts are based on the evidence of 12 insider witnesses – who corroborate each other's testimony and who will testify at trial – as well as substantial documentary evidence, all of which collectively will demonstrate beyond a reasonable doubt that **SAID** was the top-ranking Seleka at the OCB, who was put into this position by ADAM.³³⁸ ADAM appointed **SAID** as the factual head of the OCB on or about 12

³³⁶ See *supra*, para. 89 (sources cited in the footnotes); **P-0787**: CAR-OTP-2036-0410-R01 at 0417, 0422, paras. 37, 55 (Eng).

³³⁷ Confirmation Decision (Operative Part), pages 54, 60-61, paras. 24, 33-36, 37-38, 39-40.

³³⁸ **P-0787**: CAR-OTP-2130-0893-R01 at 0902, para. 41 (Fr); **P-1004**: CAR-OTP-2130-1736-R01, at 1742, para. 33 (Fr); **FIDH report**: CAR-OTP-2001-2890 at 2933-2934, p. 44-45; **P-1429**: CAR-OTP-2043-0317-R01 at 0324, para. 48 (Fr); **P-0547**: CAR-OTP-2018-0389-R01 at 0408, para. 137 (Fr); **P-2105**: CAR-OTP-2081-0037-R01 at 0043, para. 31 (Fr); **P-1167**: CAR-OTP-2127-7671-R01 at 7685, para. 76; **List of OCB Seleka**: CAR-OTP-2082-0458.

April 2013, effectively putting him in charge of this police unit and all Seleka who were stationed there. **SAID** reported directly to ADAM.³³⁹

1. SAID's authority over OCRB-Seleka

112. According to witness accounts, **SAID** had full authority over 35 to 60 Seleka elements stationed at the OCRB.³⁴⁰ These Seleka were under **SAID's** command, and they followed his orders, which were mostly given verbally.³⁴¹ They stood up when he entered the premises.³⁴² **SAID** was known and referred to by various titles, such as 'head',³⁴³ 'Colonel',³⁴⁴ 'commander',³⁴⁵ 'chief',³⁴⁶ or 'director' of the OCRB,³⁴⁷ all of which confirm that, in the eyes of his subordinates and others, he held a position of authority. Furthermore, **SAID** introduced himself as 'appointed Head of the OCRB' or 'Directeur de l'OCRB Central'.³⁴⁸ **SAID** was also escorted and saluted to, and his orders were always followed.³⁴⁹ Therefore, **SAID** was at the top of the OCRB hierarchy, subordinate only to Adam.
113. **SAID** divided the Seleka under his command into four groups, who would go on patrols and work in 24 hour rotations.³⁵⁰ All four groups were subordinate to him.³⁵¹ He had an

³³⁹ **P-0338**: CAR-OTP-2130-5761-R01 at 5774-5775, paras. 65, 71 (Fr); **P-1004**: CAR-OTP-2130-1736-R01 at 1742, para. 33 (Fr); **P-2105**: CAR-OTP-2081-0037-R01 at 0042-0043, paras. 27, 31 (Fr); **P-0349**: CAR-OTP-2074-0041-R01 at 0051, para. 56 (Fr); **FIDH report**: CAR-OTP-2001-2890 at 2933-2934, p. 44-45.

³⁴⁰ **P-2161**: CAR-OTP-2127-9323-R01 at 9333, paras. 50, 52 (Fr); **P-2478**: CAR-OTP-2107-8835-R02 at 8839-8840, paras. 16-18; **P-2105**: CAR-OTP-2083-0003-R01 at 0010, paras. 24, 31, 33 (Eng); **P-1737**: CAR-OTP-2055-0137-R01 at 0142, 0146, paras. 26, 50 (Eng). See **CAR Ministry of Defence List**: CAR-OTP-2069-0332 (at tab "Situation Detaillee" which references 44).

³⁴¹ **P-2504**: CAR-OTP-2107-8430-R01 at 8438, para. 42 (Fr); **P-2563**: CAR-OTP-2130-4890-R01 at 4906, lns. 514-520 (Fr).

³⁴² **P-2504**: CAR-OTP-2107-8430-R01 at 8438, para. 42 (Fr).

³⁴³ **P-0435**: CAR-OTP-2017-0036-R01 at 0057, para. 123 (Eng).

³⁴⁴ **P-2504**: CAR-OTP-2107-8430-R01 at 8438, para. 42 (Fr); **P-0338**: CAR-OTP-2068-0244-R01 at 0254, para. 60 (Eng); **P-1167**: CAR-OTP-2094-0002-R01 at 0036, para. 196 (Eng).

³⁴⁵ **P-2105**: CAR-OTP-2078-0003-R01 at 0012, para. 57; **P-1167**: CAR-OTP-2094-0002-R01 at 0044, Photograph 9 and 10 (Annex D) (Eng); **FIDH report**: CAR-OTP-2001-2890 at 2933, p. 44 ("On 5 July the FIDH mission went to the premises of the OCRB where the members of the mission met with its *commander*, Mahamat Said Abdel Kain.").

³⁴⁶ **P-2161**: CAR-OTP-2100-2673-R01 at 2689, para. 92 (Eng); **P-2931**: CAR-OTP-2135-2245-R01 at 2251, para. 41 (Fr); **P-3064**: CAR-OTP-2135-2824-R01 at 2835, para. 56 (Fr).

³⁴⁷ **P-2478**: CAR-OTP-2107-8835-R02 at 8839, para. 16 (Eng).

³⁴⁸ **P-0338**: CAR-OTP-2068-0244-R01 at 0254, para. 60 (Eng); **P-3053**: CAR-OTP-2130-6359-R01 at 6364, para. 31 (Fr).

³⁴⁹ **P-2504**: CAR-OTP-2107-8430-R01 at 8438, para. 42 (Fr); **P-2400**: CAR-OTP-2104-0424-R01 at 0432, para. 41 (Eng).

³⁵⁰ **P-2161**: CAR-OTP-2127-9323-R01 at 9333, para. 50 (Fr).

³⁵¹ **P-2161**: CAR-OTP-2127-9323-R01 at 9333, para. 50 (Fr).

office in the main building of the OCB, ³⁵² and conducted business from a table under a tree in the courtyard. ³⁵³

2. SAID exercised control over and cooperated with Seleka at the OCB

114. **SAID**'s deputy was Mahamat TAHIR Babikir ("TAHIR"), ³⁵⁴ who was also appointed by ADAM. ³⁵⁵ TAHIR was also a Colonel and SAID's head of operations. ³⁵⁶ The Seleka YAYA Soumaine aka Soumayele ("YAYA") was another of **SAID**'s subordinates and acted as an advisor at the OCB. ³⁵⁷ According to P-0338, YAYA was **SAID**'s most trusted associate at the OCB. ³⁵⁸
115. Hissene or Issene DAMBOUCHA ("DAMBOUCHA") was another senior Seleka cooperating with **SAID** at the OCB on detentions. ³⁵⁹ The evidence differs as to whether DAMBOUCHA was subordinate to **SAID** like TAHIR. Insider witness P-1167 states that **SAID** was the highest ranking OCB Seleka commander, followed by SALLET and TAHIR, followed by DAMBOUCHA, then by NOIRO and YAYA who were Commandants as opposed to Colonels. ³⁶⁰ According to P-1167, DAMBOUCHA held a commanding role at the OCB and was involved in crimes committed against detainees there. ³⁶¹ P-2563, another Seleka insider, explains that DAMBOUCHA was actually a direct subordinate of Mahamat SALLET, who was senior to **SAID**, ³⁶² but also reported directly to ADAM. ³⁶³ According to P-2563, a Seleka named NOIRO was also subordinate to **SAID**. NOIRO and YAYA would also lead the so called "rapid

³⁵² **P-0338**: CAR-OTP-2130-5761-R01 at 5783, 5785, para. 119.

³⁵³ **P-0787**: CAR-OTP-2130-0893-R01 at 0916, para. 98 (Fr); **P-1004**: CAR-OTP-2043-0536-R01 at 0541, para. 39 (Fr); **P-2105**: CAR-OTP-2078-0003-R01, at 0014, para. 64 (Fr).

³⁵⁴ **P-0338**: CAR-OTP-2130-5761-R01 at 5773, para. 62; **List of OCB Seleka**: CAR-OTP-2082-0458.

³⁵⁵ **P-2105**: CAR-OTP-2078-0003-R01 at 0015, 0016, paras. 69, 80 (Fr).

³⁵⁶ **P-0787**: CAR-OTP-2036-0410-R01 at 0418, para. 41 (Eng). See also P-2478: CAR-OTP-2107-8835-R02 at 8841, para. 20 (stating that both **SAID** and TAHIR drove the intervention vehicles which had "Directeur de l'OCB" written on them). P-2478 also recognised TAHIR on a photo, see P-2478: CAR-OTP-2107-8835-R02 at 8855: "CAR-OTP-2094-1928: TAHIR is shaking DJOTODIA's hand and **SAID** is next to DJOTODIA").

³⁵⁷ **P-2563**: CAR-OTP-2130-4811-R01 at 4832, lns. 667-691 (spelled "SOUMAINE"); **P-0338**: CAR-OTP-2130-5761-R01 at 5773, para. 62 (Fr); [REDACTED] **List of OCB Seleka**: CAR-OTP-2036-0439 (spelled "SOMAYELE").

³⁵⁸ **P-0338**: CAR-OTP-2130-5761-R01 at 5777, para. 82 (Fr).

³⁵⁹ **P-1167**: CAR-OTP-2127-7671-R01 at 7685, para. 76 (Fr); **P-2105**: CAR-OTP-2081-0037-R01 at 0041, para. 22.

³⁶⁰ **P-1167**: CAR-OTP-2094-0002-R01 at 0014, para. 76 (Eng).

³⁶¹ **P-1167**: CAR-OTP-2127-7671-R01 at 7688, 7696, paras. 94, 138-142 (Fr).

³⁶² **P-2563**: CAR-OTP-2130-4837-R01 at 4846, lns. 240-245; **P-2563**: CAR-OTP-2130-4978-R01 at 4982, lns. 90-95.

³⁶³ **P-1167**: CAR-OTP-2127-7671-R01 at 7689, para. 96 (Fr)

intervention” missions of the OCRB.³⁶⁴ P-2161 states that DAMBOUCHA visited the OCRB, including **SAID**, two to three times per week.³⁶⁵ Based on the witness evidence, DAMBOUCHA is considered to have been a close associate of **SAID**’s who cooperated and coordinated with him regularly at the OCRB in relation to arrests and detentions.

3. Relationship of the OCRB-Seleka to the CAR national police

116. The OCRB was a pre-existing subunit of the CAR national police.³⁶⁶ The OCRB headquarters³⁶⁷ are located in Bangui, opposite the police headquarters, and near the Presidential Palace.³⁶⁸ Although some officially appointed police officers worked at the OCRB during this period,³⁶⁹ the Seleka stationed at the OCRB usurped the institution’s regular structure and processes.³⁷⁰ The presence and control of the Seleka at the OCRB effectively rendered the career police officers stationed there powerless.³⁷¹
117. Although according to documentation and witnesses, Louis MAZANGUE, himself a career police officer, was officially appointed as Director of the OCRB on 18 April 2013,³⁷² with **SAID** as his deputy,³⁷³ career police officers based at the OCRB had to comply with **SAID**’s orders.³⁷⁴ P-0787 states that **SAID** dictated what career police officers would investigate and what would be passed to the prosecutor.³⁷⁵ The police officers at the OCRB received orders from **SAID**³⁷⁶ and were working with the Seleka,

³⁶⁴ *Id.*, para. 95.

³⁶⁵ **P-2161**: CAR-OTP-2100-2673-R01 at 2686, paras. 72-73 (Eng).

³⁶⁶ **P-0338**: CAR-OTP-2130-5761-R01 at 0246-0247, paras. 16-20 (Fr); **P-0435**: CAR-OTP-2104-0954-R01 at 0959, paras. 21-22 (Fr).

³⁶⁷ Although there are branches of the OCRB located around Bangui, “OCRB” is used in this Application to refer to the OCRB headquarters compound specifically and to the crimes committed at that location.

³⁶⁸ **P-0481**: CAR-OTP-2104-1024 at 1035, para. 56 (Fr); **P-1737**: CAR-OTP-2130-2086-R01 at 2091, para. 23 (Fr); **P-0338**: CAR-OTP-2130-5761-R01 at 0246, para. 16 (Fr). *See also* **P-1289**: CAR-OTP-2127-7632-R01 at 7642, para. 49 (Fr); **FSS report on OCRB**: CAR-OTP-2062-0743-R01 at 0754-0758.

³⁶⁹ **P-0787**: CAR-OTP-2130-0893-R01 at 0902, paras. 39-41 (Fr); **P-0338**: CAR-OTP-2130-5761-R01 at 5776, para. 78 (Fr); **P-1004**: CAR-OTP-2130-1736-R01 at 1742, para. 35 (Fr); **P-1737**: CAR-OTP-2130-2086-R01 at 2090, para. 19 (Fr); **P-0547**: CAR-OTP-2078-0292-R01 at 0300, para. 36 (Fr).

³⁷⁰ **P-0787**: CAR-OTP-2130-0893-R01 at 0902-0903, paras. 41-42 (Fr); **P-0338**: CAR-OTP-2130-5761-R01 at 5773, para. 60. *See also* CAR-OTP-2034-3104.

³⁷¹ **P-1289**: CAR-OTP-2127-7632-R01 at 7647, para. 74 (Fr); **P-0338**: CAR-OTP-2130-5761-R01 at 5775, paras. 71-74, at 5778, para. 91, at 5779-5780, paras. 96, 103; **P-0547**: CAR-OTP-2078-0292-R01 at 0300 para. 36 (Fr); **P-2105**: CAR-OTP-2078-0003-R01 at 0014 para. 68 (Fr); **P-1167**: CAR-OTP-2127-7671-R01 at 7682, para. 59 (Fr) (on rapid intervention teams).

³⁷² **Note de Service**: CAR-OTP-2034-1740. *See also* **P-0435**: CAR-OTP-2104-0954-R01 at 0966, para. 62 (Fr).

³⁷³ **P-1737**: CAR-OTP-2130-2086-R01 at 2091, para. 24 (Fr).

³⁷⁴ **P-0787**: CAR-OTP-2130-0893-R01 at 0902, para. 41 (Fr); **P-2105**: CAR-OTP-2078-0003-R01 at 0014-0015, para. 66, 68, 79 (Fr); **P-1167**: CAR-OTP-2127-7671-R01 at 7684, para. 73 (Fr).

³⁷⁵ **P-0787**: CAR-OTP-2130-0893-R01 at 0902, para. 41 (Fr).

³⁷⁶ **P-2563**: CAR-OTP-2130-4890-R01 at 4903-4907, lns. 405-529 (Fr).

although they were scared of them.³⁷⁷ P-0338 explains that the police officers were not informed by ADAM or SAID of any operations, with only one exception.³⁷⁸ While the police officers at the OCRB investigated and created case files and also cooperated with the Prosecutor's Office for ordinary crime cases at the OCRB, they did not have access to the detention cells or to the prisoners detained in the underground cell under SAID's office.³⁷⁹

4. SAID was subordinate to ADAM

118. P-0338 and P-2105 describe that when ADAM came to the OCRB, he would typically be briefed by SAID.³⁸⁰ P-0338 also states that SAID ensured that the OCRB Seleka were armed and ready for operations, in line with ADAM's instructions.³⁸¹ He also ensured that ADAM's orders, including on arrests, had been implemented.³⁸² SAID received money from ADAM to supply the OCRB Seleka,³⁸³ and he reported about the activities of the OCRB to ADAM.³⁸⁴
119. After the Seleka's military advance and takeover of Bangui on 24 March 2013, in which SAID participated,³⁸⁵ he became a direct subordinate of ADAM,³⁸⁶ who was Minister of Public Security until 22 August 2013 and then Director of the CEDAD.³⁸⁷ From 31 March 2013, when ADAM was appointed Minister of Security,³⁸⁸ the police — of which the OCRB was a component — fell within ADAM's official remit.³⁸⁹ Because of his

³⁷⁷ **P-2563:** CAR-OTP-2130-4890-R01 at 4903-4907, Ins. 405-529 (Fr); **P-0787:** CAR-OTP-2130-0893-R01 at 0902, para. 41 (Fr).

³⁷⁸ **P-0338:** CAR-OTP-2130-5761-R01 at 5778-5779, paras. 91, 96 (Fr).

³⁷⁹ **P-2478:** CAR-OTP-2110-0745-R02 at 0757, para. 50 (Fr).

³⁸⁰ **P-0338:** CAR-OTP-2130-5761-R01 at 5775, 5783, paras. 73, 120; **P-1004:** CAR-OTP-2130-1736-R01 at 1742, para. 33 (Fr); **P-2105:** CAR-OTP-2078-0003-R01 at 0014-0015, paras. 68, 73 (Fr).

³⁸¹ **P-0338:** CAR-OTP-2130-5761-R01 at 5775, para. 71 (Fr).

³⁸² **P-2105:** CAR-OTP-2078-0003-R01 at 0015, para. 73 (Fr).

³⁸³ **P-0338:** CAR-OTP-2130-5761-R01 at 5774, para. 68 (Fr).

³⁸⁴ **P-0338:** CAR-OTP-2130-5761-R01 at 5774, para. 65 (Fr).

³⁸⁵ **P-1176:** CAR-OTP-2127-7671-R01 at 7688, para. 93 (Fr); **FIDH REPORT:** CAR-OTP-2001-2890 at 2933-2934.

³⁸⁶ **P-1004:** CAR-OTP-2130-1736-R01 at 1742, para. 33; **P-0787:** CAR-OTP-2130-0893-R01 at 0902-0903, 0911, paras. 41, 43, 75; **P-0338:** CAR-OTP-2130-5761-R01 at 5772-5773, para. 59, at 5775, para. 71 (Fr); **FIDH REPORT:** CAR-OTP-2001-2890 at 2933; **P-0349:** CAR-OTP-2074-0041-R01 at 0051, para. 56 (Fr).

³⁸⁷ See *infra*, para. 111.

³⁸⁸ **Decree 13.009:** CAR-OTP-2005-0404 at 0404.

³⁸⁹ **P-0435:** CAR-OTP-2104-0954-R01 at 0959, 0972-0975, paras. 21-22, 104 and Annex G at CAR-OTP-2017-0084 (Fr); **P-1737:** CAR-OTP-2130-2086-R01 at 2090, 2095-2096, para. 19, 44 (Fr); **P-0338:** CAR-OTP-2130-5761-R01 at 5773, 5779-5780, paras. 64, 97-98 (Fr). See also **CAR Government document:** CAR-OTP-2034-2392; **CAR Government document:** CAR-OTP-2034-2407 at 2409-2410; **CAR Government document:** CAR-OTP-2034-2974; **CAR Government document:** CAR-OTP-2034-3083; and **Internal communication:** CAR-OTP-2034-3653 at 3654 (internal structure of the Ministry of Public Security denoted at the top left of the document); **CAR Government document:** CAR-OTP-2034-4649.

position as Minister of Security, ADAM was in charge of the OCB – he had *de jure* and *de facto* authority.³⁹⁰ While the Seleka assigned to duty at the OCB were not provided with formal police training,³⁹¹ ADAM signed and issued Seleka membership identification cards to them. These cards included the reference to section “CMSAK”, which is short for Colonel Mahamat Said Abdel Kani.³⁹²

120. **SAID**’s power at the OCB flowed directly from ADAM. According to both insider witnesses and detainees, ADAM was present at the OCB on a regular basis,³⁹³ conducting a variety of activities, such as interrogating detainees,³⁹⁴ visiting detention cells,³⁹⁵ checking on detainees,³⁹⁶ distributing money or other goods to **SAID** and the OCB Seleka,³⁹⁷ bringing in recruits or detainees,³⁹⁸ patrolling at night together with other OCB Seleka,³⁹⁹ and holding meetings in the OCB’s courtyard.⁴⁰⁰ During his visits, ADAM gave orders which were implemented,⁴⁰¹ including on the release⁴⁰² or torture of detainees,⁴⁰³ and punishment of his OCB Seleka subordinates.⁴⁰⁴ Witnesses who were detained describe that ADAM had the power to intervene in relation to the status of detainees, including granting clemency if he chose to, releasing them at his

³⁹⁰ **P-0338**: CAR-OTP-2130-5761-R01 at 5775, para. 70 (Fr); **P-2105**: CAR-OTP-2078-0003-R01 at 0015-0016, paras. 70-75 (Fr).

³⁹¹ **P-1004**: CAR-OTP-2130-1736-R01 at 1742, para. 35; **P-1737**: CAR-OTP-2130-2086-R01 at 2092, para. 27 (Fr).

³⁹² **P-1737**: CAR-OTP-2130-2086-R01 at 2096-2097, paras. 47-50 (Fr) and Annexes at CAR-OTP-2055-0194 and CAR-OTP-2055-0195; **P-1167**: CAR-OTP-2094-0002-R01 at 0010, para. 52 (Eng) and **P-1167 Annex A**: CAR-OTP-2094-1899-R01; See also **P-2105**: CAR-OTP-2081-0037-R01 at 0053, para. 94, and Annex IV at CAR-OTP-2081-0066 (Fr).

³⁹³ **P-0338**: CAR-OTP-2130-5761-R01 at 5774, 5775, 5783, paras. 68, 73, 120 (Fr); **P-1004**: CAR-OTP-2043-0536-R01 at 0541, para. 33 (Fr); **P-0787**: CAR-OTP-2130-0893-R01 at 0903, 0906, paras. 43-44, 55; **P-1429**: CAR-OTP-2043-0317-R01 at 0326, para. 65 (Fr); **P-2105**: CAR-OTP-2078-0003-R01 at 0015, para. 70 (Fr).

³⁹⁴ **P-0481**: CAR-OTP-2104-1024-R01 at 1041-1043, paras. 101-113; **P-2105**: CAR-OTP-2078-0003-R01 at 0015-0016, para. 73 (Fr).

³⁹⁵ **P-0622**: CAR-OTP-2022-0121-R01 at 0129, paras. 64-66 (Fr).

³⁹⁶ **P-1737**: CAR-OTP-2130-2086-R01 at 2097, paras. 51-52 (Fr).

³⁹⁷ **P-0787**: CAR-OTP-2130-0893-R01 at 0903, paras. 43-44 (Fr); **P-0338**: CAR-OTP-2130-5761-R01 at 5774, para. 68 (Fr); **P-1004**: CAR-OTP-2130-1736-R01 at 1742, paras. 32, 35 (Fr); **P-1737**: CAR-OTP-2130-2086-R01 at 2096, para. 45 (Fr); **P-1167**: CAR-OTP-2127-7671-R01 at 7681, para. 52 (Fr).

³⁹⁸ **P-0787**: CAR-OTP-2130-0893-R01 at 0903, para. 44 (Fr).

³⁹⁹ **P-1429**: CAR-OTP-2043-0317-R01 at 0326, para. 65 (Fr).

⁴⁰⁰ **P-1429**: CAR-OTP-2043-0317-R01 at 0326, para. 66 (Fr); **P-0338**: CAR-OTP-2130-5761-R01 at 5775, para. 73 (Fr); **P-2105**: CAR-OTP-2078-0003-R01 at 0016, para. 76 (Fr).

⁴⁰¹ **P-0338**: CAR-OTP-2130-5761-R01 at 5775, paras. 70-71 (Fr); **P-1737**: CAR-OTP-2130-2086-R01 at 2095-2096, para. 44 (Fr).

⁴⁰² **P-1429**: CAR-OTP-2043-0317-R01 at 0326-0327, para. 68 (Fr); **P-0338**: CAR-OTP-2130-5761-R01 at 5786-5787 paras. 140-141 (Fr).

⁴⁰³ **P-1737**: CAR-OTP-2130-2086-R01 at 2098-2099, paras. 58, 60 (Fr).

⁴⁰⁴ **P-1737**: CAR-OTP-2130-2086-R01 at 2058, para. 56 (Fr).

will,⁴⁰⁵ or allowing their families to visit them,⁴⁰⁶ often in the face of mounting public pressure.⁴⁰⁷ P-0787, [REDACTED], describes how ADAM intervened and resolved disputes,⁴⁰⁸ and gave orders over the phone when he was not physically present.⁴⁰⁹

121. ADAM's *de jure* control over the OCRB lasted for at least as long as the duration of his tenure as Minister of Security from 31 March to 21 August 2013. However, ADAM continued to exercise his official functions as Minister of Security beyond this date⁴¹⁰ and maintained *de facto* control of the OCRB until at least 30 August 2013 when the new Minister of Security BINOUA, following a decision by DJOTODIA, asked the Seleka to leave the OCRB premises.⁴¹¹ Between 22 and 30 August 2013, ADAM continued to visit and give orders at the OCRB, which were carried out by his Seleka subordinates, including SAID, who were still based there.⁴¹²

5. Cooperation with other Senior Seleka Leaders

122. In addition, ADAM and SAID cooperated regularly with other high-ranking Seleka regarding detentions at the OCRB as of April 2013. Fadoul AL-BACHAR ("AL-BACHAR"), the deputy head of CEDAD, Adoum RAKISS ("RAKISS"), a General and the deputy head of the Police, and Mahamat SALLET Adoum Kette ("SALLET"), a Seleka General tasked with security issues, were senior Seleka leaders coordinating regularly and closely with SAID, DAMBOUCHA and TAHIR on arrests and bringing detainees to the OCRB.⁴¹³

⁴⁰⁵ See, e.g., **P-1289**: CAR-OTP-2127-7632-R01 at 7648-7650, paras. 81-92 (Fr).

⁴⁰⁶ **P-0481**: CAR-OTP-2104-1024-R01 at 1038-1039, paras. 82-83 (Fr).

⁴⁰⁷ See e.g., **P-1429**: CAR-OTP-2043-0317-R01 at 0326-0327, paras. 68-69 (Fr); **P-0338**: CAR-OTP-2130-5761-R01 at 5786-5787, paras. 140-141 (Fr); **P-1289**: CAR-OTP-2127-7632-R01 at 7650, para. 90 (Fr).

⁴⁰⁸ **P-0787**: CAR-OTP-2130-0893-R01 at 0905-0906, para. 51-53 (Fr); **P-0338**: CAR-OTP-2130-5761-R01 at 5775, para. 70 (Fr).

⁴⁰⁹ **P-0787**: CAR-OTP-2130-0893-R01 at 0904, para. 46 (Fr); **P-0338**: CAR-OTP-2130-5761-R01 at 5776, para. 76 (Fr).

⁴¹⁰ ADAM continued to issue official documents as Minister of Security from 22 August until 27 August 2013: see CAR-OTP-2034-2878; CAR-OTP-2034-4155; CAR-OTP-2034-2446; CAR-OTP-2034-2927; CAR-OTP-2034-2347; CAR-OTP-2034-3567; CAR-OTP-2034-4647; CAR-OTP-2034-2876; CAR-OTP-2034-2879; CAR-OTP-2034-4652; CAR-OTP-2034-4653; CAR-OTP-2034-4651; CAR-OTP-2017-0088. Of these documents: CAR-OTP-2034-2876 and CAR-OTP-2034-4649 concern the OCRB.

⁴¹¹ **P-0787**: CAR-OTP-2130-0893-R01 at 0917, para. 101 (Fr); **P-0338**: CAR-OTP-2130-5761-R01 at 5788-5789, paras. 150-156; **P-1737**: CAR-OTP-2130-2086-R01 at 2101, para. 70. [REDACTED]; **P-1967**: CAR-OTP-2118-6365-R01 at 6457-6458 (referencing P8301174 to P8301201 which are CAR-OTP-2069-3221 to CAR-OTP-2069-3246).

⁴¹² **P-0622**: CAR-OTP-2022-0121-R01 at 0129-0130, para. 64-65, 70 (Fr); **P-0547**: CAR-OTP-2018-0389-R01 at 0396-0397, 0401, 0406, paras. 50-52, 86, 117-123 (Fr).

⁴¹³ See **P-1167**: CAR-OTP-2094-0002-R01 at 0014, 0015, 0017, paras. 76, 83, 94; **P-2161**: CAR-OTP-2100-2673-R01 at 2686, para. 72 (Eng).

123. At the relevant time, RAKISS, a Chadian national, was appointed as Deputy Director General of the Police (he was initially named Director of the Police but was seen as too uneducated for that role and so was quickly re-named as Deputy Director but he continued to effectively act as the head of the police),⁴¹⁴ a position he took up on 5 June 2013.⁴¹⁵ RAKISS's appointments were signed by DJOTODIA, at the proposal of then Minister of Public Security, Nouredine ADAM.⁴¹⁶ He had joined the Seleka on their approach to Bangui.⁴¹⁷ According to [REDACTED] P-0787, RAKISS rose quickly through the ranks of the Seleka, using his money to buy rank within the Seleka, and then, having obtained a high rank, using his influence to extort money from traders and other persons.⁴¹⁸ He was known as an ardent Seleka member.⁴¹⁹ During 2013, RAKISS had the rank of General within the Seleka.⁴²⁰ P-1737, a Seleka who was posted at the OCRB, said that RAKISS was always in ADAM's company at the Ministry of Public Security.⁴²¹ According to P-2240, [REDACTED], RAKISS would attend security meetings twice a week with ADAM, ARDA, AL-BACHAR and others.⁴²² As the effective head of the police, RAKISS had authority over the OCRB and its staff, as it was a unit of the CAR national police.⁴²³ In his role RAKISS was senior to SAID, but SAID had day-to-day control on the ground at the OCRB and reported directly to ADAM.⁴²⁴ Nonetheless, as a General, RAKISS out-ranked SAID.⁴²⁵

⁴¹⁴ **Passport Application:** CAR-OTP-2013-0393-R01; **CAR Ministry of Defence List:** CAR-OTP-2069-0332 (list of Seleka registered for entry into FACA dated 10 October 2013 / see also CAR-OTP-2100-0825) listing an Adama-RAKISS / Adam RAKISS ABDERASSOUL with the same birthdate as RAKISS of 01/01/1963. **CAR Ministry of Defence List:** CAR-OTP-2067-0120 at 0131 lists Adam RAKISS ABDERASSOUL as a 2nd class soldier, with a registration number of 201321407; **P-0547:** CAR-OTP-2018-0389-R01 at 0413, para. 181 (Fr); **P-0547:** CAR-OTP-2025-0566-R01 at 0590, para. 181 (Eng).

⁴¹⁵ **CAR Decree:** CAR-OTP-2034-2704.

⁴¹⁶ **CAR Decree:** CAR-OTP-2004-1385, at 1444; **CAR Decree:** CAR-OTP-2005-0324.

⁴¹⁷ **BND Report:** CAR-OTP-2064-0634 at 0655-0656. See also **BND Report:** CAR-OTP-2064-0674 at 0689 (RAKISS can be seen in photos with other Seleka leaders in early March 2013 in Damara).

⁴¹⁸ **P-0787:** CAR-OTP-2130-0893-R01 at 0909-0910, paras. 66-72 (Fr).

⁴¹⁹ **CAR Primature Document:** CAR-OTP-2101-3176 at 3178.

⁴²⁰ **BND Report:** CAR-OTP-2064-0674 at 0689; **BND Report:** CAR-OTP-2064-0634 at 0655-0656; **P-0964:** CAR-OTP-2092-3423-R01 at 3428-3429, lns. 179-199.

⁴²¹ **P-1737:** CAR-OTP-2130-2086-R01 at 2098, para. 57 (Fr).

⁴²² **P-2240:** CAR-OTP-2110-0780-R01 at 0787-789, para. 27 (Fr).

⁴²³ **Internal communication, NOV13:** CAR-OTP-2034-3653 at 3654 (internal structure of the Ministry of Public Security denoted at the top left of the document); **P-1167:** CAR-OTP-2127-7671-R01 at 7690, para. 104 (Fr).

⁴²⁴ See, e.g., **P-0338:** CAR-OTP-2130-5761-R01 at 5775, paras. 70-71 (Fr); **P-0338:** CAR-OTP-2068-0244-R01 at 0256, paras. 70-71 (Eng); **P-1167:** CAR-OTP-2127-7671-R01 at 7690, para. 104 (Fr).

⁴²⁵ **P-0787:** CAR-OTP-2130-0893-R01 at 0909-0910, paras. 66-72 (Fr).

124. AL-BACHAR⁴²⁶ was the deputy head of the intelligence agency known as the CEDAD at the time. AL-BACHAR organised the fighters on the ground prior to the Seleka's arrival in Bangui. ADAM was in contact with them, organising and conducting military operations. After the Seleka takeover of Bangui, AL-BACHAR remained close to President DJOTODIA and became one of leading intelligence chiefs of the Seleka regime.⁴²⁷ On 7 June 2013, AL-BACHAR was appointed *Directeur Général Adjoint* (Deputy Director General) of the CEDAD by presidential decree.⁴²⁸ At this time, ADAM was still Minister of Security. However, AL-BACHAR, who was directly under DJOTODIA at the CEDAD, worked closely together with ADAM as part of a Seleka group tasked with addressing national security issues.⁴²⁹
125. SALLET had a constant senior role at the OCRB and recruited for the OCRB.⁴³⁰ P-2563 describes that SALLET would visit the OCRB to give instructions, receive reports and visit the prison. Sometimes SALLET would give direct orders to SAID or would give orders to other Seleka elements as a group.⁴³¹ SALLET would usually visit the OCRB weekly, and most of the time, he would communicate daily with SAID over the phone.⁴³² Also, SALLET would give orders to SAID to put prisoners in the basement of the OCRB.⁴³³
126. The Call Data Records attributed to SAID at the time relevant to the charges demonstrate his continuous and regular communications by phone with ADAM, DAMBOUCHA and SALLET as well as other persons who have said that they worked at the OCRB.⁴³⁴
127. SAID's senior position within the Seleka is also evidenced by his direct access to President DJOTODIA. DJOTODIA would visit the OCRB at night and speak to SAID.⁴³⁵

⁴²⁶ **Passport application Fadoul AL-BACHAR:** CAR-OTP-2013-0354-R01; **P-0349:** CAR-OTP-2074-0041-R01 at 0052, para. 61 (Fr).

⁴²⁷ **P-1967:** CAR-OTP-2069-2543; CAR-OTP-2069-0670; CAR-OTP-2069-0671; CAR-OTP-2069-1991; CAR-OTP-2069-2329; CAR-OTP-2069-2430; CAR-OTP-2069-2506; CAR-OTP-2069-2747; CAR-OTP-2069-2889 (photographs showing AL-BACHAR with Seleka leadership in 2013).

⁴²⁸ **Decree 13.139:** CAR-OTP-2005-0328; **Decree 13.117:** CAR-OTP-2005-0377.

⁴²⁹ **P-2240:** CAR-OTP-2110-0780-R01 at 0787-0788, para. 27 (Fr).

⁴³⁰ **P-1737:** CAR-OTP-2130-2086-R01 at 2090-2091, para. 20 (Fr).

⁴³¹ **P-2563:** CAR-OTP-2118-2856-R01 at 2861-2862, 2873, Ins. 161-192, 568-697 (Eng).

⁴³² **P-2563:** CAR-OTP-2118-2856-R01 at 2873-2874, Ins. 568-619 (Eng).

⁴³³ **P-2563:** CAR-OTP-2118-2897-R01 at 2903, Ins. 172-193 (Eng).

⁴³⁴ **P-3108:** CAR-OTP-2136-0675; **P-2105:** CAR-OTP-2078-0003-R01 at 0016, para. 78 (Fr); **P-0338:** CAR-OTP-2068-0244-R01 at 0257, para. 76 (Eng); **P-1167:** CAR-OTP-2094-0002-R01 at 0017, para. 93 (Eng).

⁴³⁵ **P-0338:** CAR-OTP-2130-5761-R01 at 5789, para. 102 (Fr).

SAID spoke with DJOTODIA directly on several occasions also at *Camp de Roux*. Sometimes they were in the courtyard and other times within the President's residence.⁴³⁶

128. **SAID** left the OCRB on 30 August 2013, when DJOTODIA's decision to remove the Seleka from the OCRB premises was implemented.⁴³⁷ This decision was motivated by the reports and complaints of human rights abuses against detainees as well as the failure to curb Seleka criminality overall in Bangui.⁴³⁸ At a ceremony held on 30 August 2013 in OCRB, DJOTODIA gave **SAID** a sack with 5 million CFA for **SAID** to distribute amongst the Seleka for their service.⁴³⁹

B. Charged Crimes at the OCRB (Counts 1 – 7)

1. Overview

129. The evidence shows that from at least 12 April 2013 until 30 August 2013, **SAID** together with the OCRB-Seleka, including the Seleka under his command, targeted perceived BOZIZE supporters by arresting, detaining and mistreating them at the OCRB compound. Particular incidents are set out in paragraph 29 of the Confirmation Decision (Operative Part).⁴⁴⁰
130. The evidence further shows that the OCRB-Seleka violently arrested these victims, often at night, and beat them.⁴⁴¹ At the OCRB - which was an enclosed compound, not publicly accessible, surrounded by high walls⁴⁴², and guarded by armed OCRB Seleka - the perceived BOZIZE supporters were then detained in small cells.⁴⁴³ Overall, the detention conditions were dire as the detainees were held in dark, hot,

⁴³⁶ **P-2504**: CAR-OTP-2107-8430-R01 at 8438, para. 43 (Fr).

⁴³⁷ **P-1432**: CAR-OTP-2050-0172-R01 at 0179, para. 54 (Fr); **P-0338**: CAR-OTP-2130-5761-R01 at 5789, para. 157 (Fr); **P-1004**: CAR-OTP-2130-1736-R01 at 1744, para. 51 (Fr); **P-2161**: CAR-OTP-2127-9323-R01 at 9340, para. 87-88 (Fr); **P-1967**: CAR-OTP-2118-6365-R01 at 6457; referencing P8301174 to P8301201 [Photos CAR-OTP-2069-3221 to CAR-OTP-2069-3246 (except for CAR-OTP-2069-3237)]; **P-2105**: CAR-OTP-2081-0037-R01 at 0054-0058 paras. 97-133 (Fr) (commenting the same photos); **P-1762**: CAR-OTP-2073-0568-R01 at 0579, paras. 80-82.

⁴³⁸ **FIDH report**: CAR-OTP-2001-2769 at 2840; **P-2478**: CAR-OTP-2110-0745-R02 at 0759 paras. 58 (Fr).

⁴³⁹ **P-1167**: CAR-OTP-2127-7671-R01 at 7698, para. 151 (Fr).

⁴⁴⁰ The Prosecution will not present evidence in relation to the arrest and detention of P-0645 at the OCRB as P-0645 has refused to sign his witness statement and declined cooperation with the Court. This relates to para. 29 (d) of the Charges.

⁴⁴¹ See *infra* para. 138, 157, 189-191.

⁴⁴² See *infra* para. 266-268.

⁴⁴³ *Ibid.*

cramped cells, and not provided with adequate food, water, or regular independent medical attention.⁴⁴⁴

131. 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 allowing access to prompt independent review of the basis of their detention and humane treatment.⁴⁴⁵ 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 against the Seleka regime, supporting BOZIZE politically, or being from the Gbaya, Mandja, or Banda ethnic groups.
132. During the relevant timeframe, **SAID** and the OCRB-Seleka under his control and with whom he was coordinating, detained individuals in a small and over-crowded underground cell by **SAID**'s office.⁴⁴⁶
133. The OCRB-Seleka under **SAID**'s control, and with his support, mistreated detainees on an almost daily basis.⁴⁴⁷ **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; and/or had their ears pulled with pliers and partially ripped off. Some men had their hands, elbows and feet tied together tightly behind their backs, in the *arbatachar* method.⁴⁴⁸
134. The evidence presented at trial will demonstrate beyond a reasonable doubt that **SAID** was in charge of the OCRB detention centre, and of the OCRB Seleka operating there, at the times when the arrest, detention and/or mistreatment of persons occurred.
135. The evidence will also show that **SAID** had the requisite knowledge and intent with regard to the charged crimes as set out in paragraphs 362 - 365 below.

⁴⁴⁴ See *infra* paras. 144, 149, 158.

⁴⁴⁵ See *infra* paras. 137 – 255.

⁴⁴⁶ See *infra* paras. 207-220, 221-236, 237-242, 243-256.

⁴⁴⁷ See *infra* paras. 340, 343.

⁴⁴⁸ See *infra* paras. 223, 290.

2. *The charged crimes*

136. The confirmed charges against **SAID**, as set out in paragraph 29 of the Confirmation Decision (operative part), are based on the evidence of the following witnesses:

a) **P-1289**⁴⁴⁹

137. The material facts related to the arrest and detention of P-1289, who is [REDACTED],⁴⁵⁰ are based on his personal account,⁴⁵¹ which is corroborated by P-1737, who states that **SAID** was involved in P-1289's arrest and detention.⁴⁵² P-1289 describes that on [REDACTED] he was violently arrested and detained for one night at the OCRB by the OCRB Seleka named [REDACTED].⁴⁵³ P-1289 had been a vocal critic of the Seleka from before their takeover of Bangui.⁴⁵⁴ [REDACTED].⁴⁵⁵

138. [REDACTED].⁴⁵⁶ [REDACTED].⁴⁵⁷ [REDACTED].⁴⁵⁸ [REDACTED] [REDACTED].⁴⁵⁹ [REDACTED].

139. P-1289 states that he was detained in one of the small windowless cells in the yard of the OCRB.⁴⁶⁰ P-1737, who was working at the OCRB at the time, recognised his neighbour P-1289 being detained at the OCRB, and can therefore corroborate P-1289's testimony.⁴⁶¹ While P-1289 does not name **SAID**, according to P-1737, **SAID** was involved in the arrest and detention.⁴⁶²

⁴⁴⁹ Confirmation Decision (Operative Part), para. 29 a).

⁴⁵⁰ **P-1289** [REDACTED]), **P-1289**: CAR-OTP-2127-7632-R01 at 7635, para. 13.

⁴⁵¹ **P-1289**: CAR-OTP-2127-7632-R01 at 7641, para. 43, 7643, para. 53 (Fr).

⁴⁵² See *infra*, para. 139.

⁴⁵³ **P-1289**: CAR-OTP-2127-7632-R01 at 7642, para. 48.

⁴⁵⁴ **P-1289**: CAR-OTP-2127-7632-R01 at 7636, para. 17.

⁴⁵⁵ **P-1289**: CAR-OTP-2127-7632-R01 at 7638, para. 27.

⁴⁵⁶ **P-1289**: CAR-OTP-2127-7632-R01 at 7648-7650, paras. 81-90 (Fr).

⁴⁵⁷ **P-1289**: CAR-OTP-2127-7632-R01 at 7648, para. 82.

⁴⁵⁸ *Ibid.*

⁴⁵⁹ **P-1289**: CAR-OTP-2127-7632-R01 at 7650, para. 92.

⁴⁶⁰ **P-1289**: CAR-OTP-2127-7632-R01 at 7643, para. 53 (Fr).

⁴⁶¹ **P-1737**: CAR-OTP-2130-2086-R01 at 2100, para. 64 (Fr).

⁴⁶² **P-1737**: CAR-OTP-2055-0137-R01 at 0149, para. 64.

140. [REDACTED],”⁴⁶³ [REDACTED].⁴⁶⁴ [REDACTED].⁴⁶⁵ Finally, P-1289 provides documentation which corroborates several aspects of his testimony, including the date of his arrest.⁴⁶⁶ He was also able to sketch the OCRB premises.⁴⁶⁷

b) P-0481⁴⁶⁸

141. The material facts of the arbitrary arrest, detention and torture of P-0481 as set out in the Confirmation Decision are based on his personal account,⁴⁶⁹ which is corroborated by other evidence.⁴⁷⁰ [REDACTED].⁴⁷¹ He describes that on or around [REDACTED].⁴⁷² SALLET and other OCRB-Seleka arrested him [REDACTED].⁴⁷³ [REDACTED].⁴⁷⁴

142. P-0481 and P-0622 were brought to the OCRB by the Seleka named “SALE,” who is Mahamat SALLET Adoum Kette.⁴⁷⁵ P-0481 was detained in one of the cells above ground with [REDACTED], who was given instructions by SALLET to move detainees but who was being disciplined at that time for [REDACTED].⁴⁷⁶

143. P-0481 states that some days after his arrest in June, [REDACTED] interrogated him about weapons allegedly hidden by BOZIZE.⁴⁷⁷ During a break in the interrogation, P-0481 was severely physically mistreated. [REDACTED]. P-0481 was then beaten [REDACTED]. The Seleka put [REDACTED] [REDACTED].⁴⁷⁸

144. P-0481 states that during his detention, he - along with other perceived BOZIZE supporters - was subjected to dire detention conditions, including being deprived of sufficient nutrition⁴⁷⁹ and independent medical treatment.⁴⁸⁰ He was not informed

⁴⁶³ P-1289 [REDACTED], see **P-1289: CAR-OTP-2127-7632-R01** at 7643, paras 54-56.

⁴⁶⁴ **P-2105: CAR-OTP-2078-0003-R01** at 0014, 0015, 0017, 0020, paras. 63-64, 73, 83, 104-105.

⁴⁶⁵ **P-1289: CAR-OTP-2127-7632-R01** at 7648, para. 77.

⁴⁶⁶ See **P-1289 Annex 5: CAR-OTP-2053-0383-R01** ([REDACTED].)

⁴⁶⁷ **P-1289 Annex 4: CAR-OTP-2053-0382** (Sketch).

⁴⁶⁸ Confirmation Decision (Operative Part), para. 29 b); DCC, para. 33 c).

⁴⁶⁹ **P-0481: CAR-OTP-2104-1024-R01** at 1034-1039, paras. 49-61, 79, 84-86, 117-121 (Fr).

⁴⁷⁰ See *infra*, para. 148.

⁴⁷¹ **P-0481: CAR-OTP-2104-1024-R01** at 1028, para. 15.

⁴⁷² **P-0481: CAR-OTP-2104-1024-R01** at 1033, para. 46.

⁴⁷³ **P-0481: CAR-OTP-2104-1024-R01** at 1034, para. 51 ([REDACTED]).

⁴⁷⁴ **P-0481: CAR-OTP-2104-1024-R01** at 1034, para. 55.

⁴⁷⁵ This is based on the witnesses description of “SALE” see P-0481: **CAR-OTP-2104-1024-R01** at 1036, paras. 66-68.

⁴⁷⁶ **P-0481: CAR-OTP-2104-1024-R01** at 1035-1036, paras. 59-62.

⁴⁷⁷ **P-0481: CAR-OTP-2104-1024-R01** at 1042, paras. 103-107.

⁴⁷⁸ **P-0481: CAR-OTP-2104-1024-R01** at 1042-1043, paras. 109-112.

⁴⁷⁹ **P-0481: CAR-OTP-2104-1024-R01** at 1035, 1043 paras. 60, 63, 113.

⁴⁸⁰ [REDACTED]. **P-0481: CAR-OTP-2104-1024-R01** at 1043, para. 113.

of the reasons for his arrest or formally charged. On the day of his mistreatment, he was interviewed by General Prosecutor TOLMO without counsel.⁴⁸¹ When P-0481 was transferred to the Tribunal de Grande Instance he managed to escape from there on[REDACTED].⁴⁸²

145. The timing of P-0481's detention is corroborated by P-2105, [REDACTED],⁴⁸³ [REDACTED].⁴⁸⁴ [REDACTED].⁴⁸⁵

146. P-0481 also states that MAZANGUE was the official head of the OCRB but with no real power,⁴⁸⁶ which is corroborated by documents and witness evidence.⁴⁸⁷

147. Further, P-0481 set out his account in a complaint in 2014.⁴⁸⁸ He also provided a release order dated [REDACTED].⁴⁸⁹ Further, the witness provided photographs, which corroborate his association with BOZIZE⁴⁹⁰ and IDRIS.⁴⁹¹ There are also photos of his scars sustained by the mistreatment.⁴⁹²

c) P-3047⁴⁹³

148. The material facts of the arbitrary arrest and detention of P-3047, who is a Christian of Gbaya ethnicity, are based on his witness account.⁴⁹⁴ [REDACTED], P-3047 was working at [REDACTED], when he was called by [REDACTED] Nouradine ADAM to a meeting [REDACTED]. When the witness arrived there in the company of an attorney he was questioned by ADAM [REDACTED], ADAM ordered that he be taken to the OCRB.⁴⁹⁵

⁴⁸¹ **P-0481**: CAR-OTP-2104-1024-R01 at 1043, para. 116.

⁴⁸² **P-0481**: CAR-OTP-2104-1024-R01 at 1044, paras. 120-121.

⁴⁸³ **P-2105**: CAR-OTP-2078-0003-R01 at 0014, 0015, 0017, 0020, paras. 63-64, 73, 83, 104-106.

⁴⁸⁴ **P-0481**: CAR-OTP-2104-1024-R01 at 1035, paras. 57-62.

⁴⁸⁵ **MoPS**: CAR-OTP-2034-3563; **P-2105**: CAR-OTP-2078-0003-R01 at 0019. *See also* **Plumitif TGI**: CAR-OTP-2136-0699-R01 at 0779, 0785-0794, 0811-0814, 0844.

⁴⁸⁶ **P-0481**: CAR-OTP-2104-1024-R01 at 1039, para. 87.

⁴⁸⁷ **Note de Service**: CAR-OTP-2034-1740. *See also* **P-0435**: CAR-OTP-2104-0954-R01 at 0966, para. 62 (Fr).

⁴⁸⁸ **P-0481**: CAR-OTP-2104-1024-R01 at 1048, para. 148.

⁴⁸⁹ **P-0481 Annex J**: CAR-OTP-2018-0566-R01 (Complaint dated 05/09/2014) . *See also* shown to the witness: CAR-OTP-2005-2526-R01 at 2528, 2532.

⁴⁹⁰ **P-0481 Annex A**: CAR-OTP-2018-0642.

⁴⁹¹ **P-0481 Annex B**: CAR-OTP-2018-0644.

⁴⁹² **P-0481 Annexes D, E, F**: CAR-OTP-2018-0639, CAR-OTP-2018-0640, CAR-OTP-2018-0646 (see also paras. 140 and 149 of P-0481's statement).

⁴⁹³ The facts related to P-3047 were included by the Prosecution, in an abundance of caution, in its request to amend the charges (see ICC-01/14-01/21-294-Conf, paras. 28-30). At the time of filing this brief a decision of the Pre-Trial Chamber is pending.

⁴⁹⁴ **P-3047**: CAR-OTP-2130-6904-R01.

⁴⁹⁵ **P-3047**: CAR-OTP-2130-6904-R01 at 6909, para. 28.

149. At the OCRB, the witness was ordered to take off his clothes, and only keep his underwear on. He was put in a cell close to the main building of the OCRB. The Seleka took his phone, clothes and wallet. In the cell there were around 50 other detainees, who also were not wearing any clothes. The detainees used jars to defecate and “*éveillon*” to urinate.⁴⁹⁶
150. P-3047 was dependent on his wife to bring him food. P-3047 was not informed of the reason for his arrest nor formally charged. Once, TAHIR caught him outside the cell and ordered the Seleka to put him back stating this was “NOURADINE’s prisoner.”⁴⁹⁷ He reports that he was interrogated twice by ADAM: [REDACTED],⁴⁹⁸ and another time regarding [REDACTED].⁴⁹⁹ [REDACTED].⁵⁰⁰ P-3047 was released from the OCRB [REDACTED] June 2013. [REDACTED].⁵⁰¹

d) P-2692⁵⁰²

151. The material facts relating to the arbitrary arrest and detention of P-2692, a Protestant Gbaya, are based on his personal account⁵⁰³ as well as corroborating documentary evidence, most notably a release note signed by “**Le Colonel**” for P-2692’s release after his [REDACTED] paid **SAID** a ransom.⁵⁰⁴ This handwritten note bears the initials “C’MSAK”, the date [REDACTED] July 2013 and the time [REDACTED]. It bears the official rank “Le Colonel” and provides the phone number [REDACTED], which is a mobile phone number which can be attributed to **SAID**.⁵⁰⁵
152. While P-2692 does not mention SAID by name he refers to the “OCRB Colonel” who was at a desk under a tree in the OCRB courtyard and who also handed him the release order.⁵⁰⁶ Other witnesses confirm that **SAID** used a desk under a tree.⁵⁰⁷

⁴⁹⁶ **P-3047**: CAR-OTP-2130-6904-R01 at 6910, paras. 36.

⁴⁹⁷ **P-3047**: CAR-OTP-2130-6904-R01 at 6911, paras. 41-42.

⁴⁹⁸ **P-3047**: CAR-OTP-2130-6904-R01 at 6911-6912, para. 41.

⁴⁹⁹ **P-3047**: CAR-OTP-2130-6904-R01 at 6913, para. 46.

⁵⁰⁰ **P-3047**: CAR-OTP-2130-6904-R01 at 6913, para. 46.

⁵⁰¹ **P-3047**: CAR-OTP-2130-6904-R01 at 6913, para. 47.

⁵⁰² Confirmation Decision (Operative Part), 29 c).

⁵⁰³ **P-2692**: CAR-OTP-2125-0922-R01 at 0924-0930, paras. 12-41 (Eng).

⁵⁰⁴ **Liberation Note**: CAR-OTP-2125-0936; **Investigation Report**: CAR-OTP-2125-0934-R01 at 0935 (liberation note signed by **SAID**).

⁵⁰⁵ **P-3108**: CAR-OTP-2136-0675 at 0677-0679 and **Annex to Report**: CAR-OTP-2136-0683.

⁵⁰⁶ **P-2692**: CAR-OTP-2125-0922-R01 at 0926-0929, paras. 22-39 (Eng); *See also* CAR-OTP-2074-0726 at 0729.

⁵⁰⁷ **P-0787**: CAR-OTP-2130-0893-R01 at 0916, para. 98 (Fr); **P-1004**: CAR-OTP-2043-0536-R01 at 0541, para. 39 (Fr); **P-2105**: CAR-OTP-2078-0003-R01, at 0014, para. 64 (Fr).

Based on the descriptions of the witness and the handwritten note with information which can be attributed to **SAID**, the inevitable inference is that the Colonel referred to by the witness is **SAID**.

153. The witness describes that on or about [REDACTED] June 2013, he was arrested by the Seleka and first brought to Camp Kassai.⁵⁰⁸ Once there, he was tied up *arbatachar*, whereby his legs and arms were tied behind him so that his feet were practically touching his head. The Seleka poured water on him. He states that it felt like being cut with knives. The Seleka threw a large stone and broken bricks against the side of P-2692's head. Being tied up *arbatachar* also made it very hard for him to breathe and he passed out at some point. He states that the pain was unimaginable.⁵⁰⁹
154. One day later, P-2692 was transferred to the OCRB with other detainees.⁵¹⁰ The Seleka elements blamed them for being Christians who had ruled the country for 50 years.⁵¹¹ P-2692 was taken to a Colonel who was at a table under a tree in the OCRB courtyard and who was in charge of the OCRB.⁵¹² [REDACTED] [REDACTED] [REDACTED].⁵¹³ [REDACTED], P-2692 was then released to get medical treatment.
155. A week after his release, P-2692 was arrested again ⁵¹⁴ [REDACTED] [REDACTED].⁵¹⁵ P-2692 was detained in a crowded cell for several weeks. He was questioned and threatened nearly every day by the 'Colonel' (namely **SAID**) and his men, [REDACTED].⁵¹⁶ P-2692 was released after his family paid another ransom.⁵¹⁷
156. During his detention, P-2692 also witnessed the mistreatment of the detainees [REDACTED].⁵¹⁸

⁵⁰⁸ **P-2692**: CAR-OTP-2125-0922-R01 at 0924, para. 12-16.

⁵⁰⁹ **P-2692**: CAR-OTP-2125-0922-R01 at 0924, para. 16-17.

⁵¹⁰ **P-2692**: CAR-OTP-2125-0922-R01 at 0925, para. 20.

⁵¹¹ **P-2692**: CAR-OTP-2125-0922-R01, para. 20.

⁵¹² **P-2692**: CAR-OTP-2125-0922-R01 at 0925, para. 22.

⁵¹³ **P-2692**: CAR-OTP-2125-0922-R01 at 0926, para. 23.

⁵¹⁴ **P-2692**: CAR-OTP-2125-0922-R01 at 0927, para. 26.

⁵¹⁵ **P-2692**: CAR-OTP-2125-0922-R01 at 0927, para. 28.

⁵¹⁶ **P-2692**: CAR-OTP-2125-0922-R01 at 0927-0928, para. 31.

⁵¹⁷ **P-2692**: CAR-OTP-2125-0922-R01 at 0929, para. 38.

⁵¹⁸ **P-2692**: CAR-OTP-2125-0922-R01 at 0928, para. 33. *See infra*, para. 172.

e) **P-0622** [REDACTED]⁵¹⁹

157. The description of the arbitrary arrest, detention and mistreatment of P-0622 and his five colleagues who were [REDACTED], is based on his personal account.⁵²⁰ P-0622, [REDACTED], states that he was arrested by Seleka named [REDACTED].⁵²¹ [REDACTED].⁵²² Upon their arrival they were harassed by Seleka at the OCRB as “*les gens de BOZIZE*”.⁵²³
158. They were detained in a small cell which was so crowded they could not sleep lying down.⁵²⁴ P-0622 describes how the Seleka deprived them of food and water, causing them to drink their own urine so as not to die of thirst.⁵²⁵ During their detention, two detainees died in the cell, and their bodies were removed by OCRB-Seleka.⁵²⁶
159. [REDACTED], Seleka elements repeatedly hit P-0622 and other detainees with the butts of their rifles.⁵²⁷ [REDACTED]⁵²⁸ The detainees were asked whether they were related to BOZIZE, and if they knew where he had hidden his assets. They were also asked whether they were FACA members or had FACA relatives.⁵²⁹ [REDACTED].⁵³⁰
160. During another session, while forced to kneel, P-0622 and other detainees were hit forcefully on the bottom of their bare feet with a truncheon.⁵³¹ During P-0622’s detention, some detainees, [REDACTED], were tied up using the *arbatachar* method.⁵³² Later, P-0622 [REDACTED] were transferred to the Camp de Roux to be further detained.⁵³³

⁵¹⁹ Confirmation Decision (Operative Part), para. 29 e).

⁵²⁰ **P-0622**: CAR-OTP-2022-0121-R01 at 0129, paras. 59-62 (Fr).

⁵²¹ **P-0622**: CAR-OTP-2022-0121-R01 at 0126, paras. 33, 34, [REDACTED].

⁵²² **P-0622**: CAR-OTP-2022-0121-R01 at 0127-0128, paras. 41-42, 51.

⁵²³ **P-0622**: CAR-OTP-2022-0121-R01 at 0128, paras. 54, 57.

⁵²⁴ **P-0622**: CAR-OTP-2022-0121-R01 at 0129, para. 60.

⁵²⁵ **P-0622**: CAR-OTP-2022-0121-R01 at 0129, para. 59, 62.

⁵²⁶ **P-0622**: CAR-OTP-2022-0121-R01 at 0129, para. 64.

⁵²⁷ **P-0622**: CAR-OTP-2022-0121-R01 at 0129, para. 70.

⁵²⁸ **P-0622**: CAR-OTP-2022-0121-R01 at 0129, para. 65.

⁵²⁹ **P-0622**: CAR-OTP-2022-0121-R01 at 0130, para. 71.

⁵³⁰ **P-0622**: CAR-OTP-2022-0121-R01 at 0130, paras. 68, 73.

⁵³¹ **P-0622**: CAR-OTP-2022-0121-R01 at 0131, para. 79, 84.

⁵³² **P-0622**: CAR-OTP-2022-0121-R01 at 0129, 0131, paras. 64, 85 (Fr).

⁵³³ **P-0622**: CAR-OTP-2022-0121-R01 at 0132, para. 94.

161. P-0622 provided a “plan *geographique*” of where the OCRB is situated, which is accurate when compared with the actual locality.⁵³⁴ He also accurately sketched the interior of the compound from memory.⁵³⁵

f) Detention and Torture of three pro-BOZIZE supporters⁵³⁶ (P-0481)

162. The material facts underlying the torture of three unknown BOZIZE supporters are based on the personal account of P-0481, who was an eye-witness to their torture (through the use of the *arbatachar* method) and their subsequent killing.⁵³⁷ P-0481 states that on or about [REDACTED], three detainees perceived as BOZIZE supporters were taken from the underground cell at the OCRB, in their underwear, and tied *arbatachar*.⁵³⁸ They were accompanied by six Seleka elements armed with AK-47s that had bayonets attached.⁵³⁹ The Seleka elements put rags in their mouth and stabbed each of the detainees on both sides of the neck and killed them.⁵⁴⁰

163. [REDACTED].⁵⁴¹

g) Arrest and detention of the FACA soldier [REDACTED]⁵⁴²

164. The evidence in support of the material facts for this incident shows that **SAID** jointly with the Seleka under his control arrested the FACA soldier [REDACTED]⁵⁴³ [REDACTED], and detained him at the OCRB. At the OCRB, **SAID** ordered that [REDACTED] be placed in cell C. Within the day, OCRB Seleka elements had shot [REDACTED], including to the head, killing him.

165. P-2504, [REDACTED], was an eye-witness to the detention of [REDACTED]⁵⁴⁴ by OCRB-Seleka, including **SAID**. [REDACTED].⁵⁴⁵ [REDACTED].⁵⁴⁶ According to P-2504, **SAID** was the most important person at the OCRB Central and all elements

⁵³⁴ **P-0622 Annex 1:** CAR-OTP-2022-0150.

⁵³⁵ **P-0622 Annex 2:** CAR-OTP-2022-0151.

⁵³⁶ Confirmation Decision (Operative Part), para. 29 f).

⁵³⁷ **P-0481:** CAR-OTP-2104-1024-R01 at 1040-1041, paras. 93-100 (Fr).

⁵³⁸ **P-0481:** CAR-OTP-2104-1024-R01 at 1040, paras. 93-94 (Fr).

⁵³⁹ **P-0481:** CAR-OTP-2104-1024-R01 at 1040, para. 94 (Fr).

⁵⁴⁰ **P-0481:** CAR-OTP-2104-1024-R01 at 1040, para. 95 (Fr).

⁵⁴¹ See **TGI register:** CAR-OTP-2008-2415 at 2499, ln. 506 [REDACTED].

⁵⁴² Confirmation Decision (Operative Part), para. 29 g).

⁵⁴³ [REDACTED] (see P-2504).

⁵⁴⁴ **P-2504:** CAR-OTP-2107-8430-R01 at 8439-8440, paras. 48-54 (Fr).

⁵⁴⁵ **P-2504:** CAR-OTP-2111-0177-R01 at 0181, para. 27.

⁵⁴⁶ **P-2504:** CAR-OTP-2111-0177-R01 at 0182, para. 31.

there were under his command. The elements would stand up and salute him and address him as “my Colonel”.⁵⁴⁷ Even the FACA officer had to salute him. **SAID** wore a military uniform and was armed.

166. P-2504 describes that the FACA member [REDACTED] was abducted at [REDACTED] by **SAID** and his elements.⁵⁴⁸ [REDACTED]. P-2504 went to the scene and witnessed [REDACTED] being taken away.⁵⁴⁹ He saw **SAID** and [REDACTED] get off the vehicle at the OCB Central and heard **SAID** order that the FACA be detained in cell C.⁵⁵⁰ [REDACTED].⁵⁵¹ P-2504 was shown photographs and was able to identify **SAID**,⁵⁵² as well as his elements⁵⁵³ and vehicles.⁵⁵⁴
167. In addition, the Prosecution relies on the account provided by [REDACTED] P-2607 states that on or about [REDACTED] June 2013 [REDACTED] was called to a meeting [REDACTED].⁵⁵⁵
168. The date of the arrest is based on P-2607’s account.⁵⁵⁶ That day a lady came to their house and informed them that [REDACTED] had been taken by the Seleka [REDACTED]. There was an ensuing fight and the Seleka arrived in two vehicles, one an army BG 75 with OCB written on it and one a black car with tinted windows. Shots were fired in the air during this incident.⁵⁵⁷
169. P-2607 and [REDACTED] left to go to the OCB Central. The road was blocked outside the OCB when they arrived. **SAID** came out of the OCB and shot his pistol into the air. He was telling his elements to not let the group through.⁵⁵⁸
170. A short time later P-2607 saw a BG75 with OCB written on it leave the compound. He believes he saw the legs of [REDACTED] sticking out from the back of the

⁵⁴⁷ **P-2504**: CAR-OTP-2111-0177-R01 at 0184, para. 42.

⁵⁴⁸ **P-2504**: CAR-OTP-2111-0177-R01 at 0185, para. 48.

⁵⁴⁹ **P-2504**: CAR-OTP-2111-0177-R01 at 0185, para. 49.

⁵⁵⁰ **P-2504**: CAR-OTP-2111-0177-R01 at 0184-0185, paras. 47, 50-51; **P-2504 Annex 4**: CAR-OTP-2111-0209.

⁵⁵¹ **P-2504**: CAR-OTP-2111-0177-R01 at 0185, paras. 52-53.

⁵⁵² **P-2504**: CAR-OTP-2111-0177-R01 at 0190, para. 89 [CAR-OTP-2069-3227].

⁵⁵³ **P-2504**: CAR-OTP-2111-0177-R01 at 0191, para. 93 [CAR-OTP-2069-3245 and CAR-OTP-2069-3227].

⁵⁵⁴ **P-2504**: CAR-OTP-2111-0177-R01 at 0191, para. 96 [CAR-OTP-2064-0797 (Facebook of P-0342)].

⁵⁵⁵ **P-2607**: CAR-OTP-2127-9527-R01 at 9530, paras. 13, 15.

⁵⁵⁶ **P-2607**: CAR-OTP-2127-9527-R01 at 9530, para. 15 (Fr).

⁵⁵⁷ **P-2607**: CAR-OTP-2127-9527-R01 at 9531, paras. 16-17.

⁵⁵⁸ **P-2607**: CAR-OTP-2127-9527-R01 at 9531, paras. 18-20.

vehicle as recognised the track suit trousers he had worn that day.⁵⁵⁹ A short time later he heard gunshots. [REDACTED].⁵⁶⁰ The next day, he was informed that his[REDACTED] had been seen at the morgue of the Hopital Communautaire. They recovered the body and saw that [REDACTED] had been killed by shots to the head. The morgue staff informed them that the Red Cross had collected the body from [REDACTED].⁵⁶¹

171. A death certificate confirms that [REDACTED] died from a bullet shot to his head.⁵⁶²

h) Flyers-Incident⁵⁶³

172. The material facts underlying the arbitrary arrest, detention and severe mistreatment of the Flyers-detainees are based on the accounts of several victims. The evidence of P-1743, P-1180, P-0358, P-2263 and P-2295 shows beyond a reasonable doubt that a group of 16 victims who had been arrested on 4 July 2013 were transferred to the OCRB after they had been violently arrested for allegedly distributing a paper or flyer calling for a *ville morte*, a term which referred to a peaceful protest (general strike) against the Seleka regime and an end to DJOTODIA's rule.⁵⁶⁴ On arrival, the Seleka ordered them to remove their clothes and lie face down; water was poured on them and sand thrown on their backs. The Seleka then flogged the men repeatedly, until their backs bled; starting again if anyone made a noise during the beatings.⁵⁶⁵ Media reporting and other documentation at the time corroborate the accounts of the witnesses.⁵⁶⁶

⁵⁵⁹ **P-2607**: CAR-OTP-2127-9527-R01 at 9531-9332, paras. 21-22.

⁵⁶⁰ **P-2607**: CAR-OTP-2127-9527-R01 at 9532, para. 22.

⁵⁶¹ **P-2607**: CAR-OTP-2127-9527-R01 at 9532, paras. 23-24.

⁵⁶² CAR-OTP-2116-0994; CAR-OTP-2116-0992-R01. The witness also confirmed that CAR-OTP-2116-0991-R01 [REDACTED].

⁵⁶³ Confirmation Decision (Operative Part), para. 29 h).

⁵⁶⁴ **P-1743**: CAR-OTP-2130-8362-R01 at 8364 – 8374, paras. 13 – 66; **P-0358**: CAR-OTP-2118-0750-R01 at 0763-0765, paras. 80-95 (Fr); **P-1180**: CAR-OTP-2127-7599-R01 at 7604-7606, paras. 25-39; at 7619, paras. 130-132; at 7622-7623, paras. 153-163 (Fr); **P-2263 (1 Statement)**: CAR-OTP-2130-6271-R01 at 6274-6276, paras. 13-30; at 6279-6281, paras. 51-64 (Fr); **P-2263 (2 Statement)**: CAR-OTP-2091-3074-R01 at 3077 – 3088, paras. 17-63 (Eng); **P-2295**: CAR-OTP-2130-9460-R01 at 9462 - 9467, paras. 12 – 37 (Eng).

⁵⁶⁵ **P-1743**: CAR-OTP-2130-8362-R01 at 8369, para. 38 (Eng) ; **P-1180**: CAR-OTP-2127-7599-R01 at 7622, paras. 154-155 (Fr); **P-2263 (2 Statement)**: CAR-OTP-2091-3074-R01 at 3079, paras. 21-22 (Eng) **P-2295**: CAR-OTP-2130-9460-R01 at 9465, para. 25 (Eng).

⁵⁶⁶ See, e.g., **TGI Register**: CAR-OTP-2008-2415 at 2501, ln. 542; **Report**, CAR-OTP-2034-0270 at 0286, para.83-84; **Media articles**: CAR-OTP-2074-0715 at 0719; CAR-OTP-2088-2811 at 2813; CAR-OTP-2074-0336 at 0342; **Communiqué radio**: CAR-OTP-2034-2344; **Complaints**, CAR-OTP-2005-1917-R01; CAR-OTP-

173. Witness P-1743 provides an overview of the incident and describes all aspects, including the arbitrary arrest, the severe physical mistreatment by way of beatings received at the OCRB, as well as the judicial proceedings that the victims were submitted to.⁵⁶⁷ He states that after being arrested and detained at the Camp de Roux, the group were brought before Prosecutors [REDACTED] who recorded them and wrote a *proces-verbale*. On the 8th day of their detention at Camp de Roux, the group was transferred to the OCRB, where upon arrival they were made to remove their shirts and mud was put on their backs. The Seleka then hit them with a belt and whipped them. P-1743 was whipped 8 times. He was insulted as being “part of BOZIZE’s family”.⁵⁶⁸
174. P-1743 states that during his detention at the OCRB he was not informed of any of his rights, nor did he have legal counsel. He was not asked if he needed medical care.⁵⁶⁹ The detainees managed to organise their own legal representation once transferred to Ngrarabgam prison.⁵⁷⁰ There was a trial before the *Tribunal de Grande Instance*. On 30 August 2013, the group was provided release certificates and all were given suspended sentences.⁵⁷¹
175. P-1180 is a victim who was arrested in front of the *Hôpital Communautaire* in BANGUI by the Seleka for photocopying a flyer calling for a “ville morte” (meaning a general strike that would effectively close down the city).⁵⁷² The witness was taken to Camp de Roux, beaten, and interrogated.⁵⁷³ He was put back in the Seleka vehicle and was present during the detention of two other [REDACTED], including P-0358.⁵⁷⁴ They were all taken back to Camp de Roux and interrogated.⁵⁷⁵ Later, P-1180 was put back again in the Seleka vehicle and was present during the arrest of other victims and witnesses, including P-2263 and P-1743, who were all

2034-0213 at 0215; **Report:** CAR-OTP-2102-0614-R02 at 0617. *See also* **Plumitif TGI:** CAR-OTP-2136-0699-R01 at 0702-0749.

⁵⁶⁷ **P-1743:** CAR-OTP-2130-8362-R01 at 8364 - 8374, paras. 13 – 67; **P-1743 Annex 1 (List of Flyers victims):** CAR-OTP-2130-8377; **P-1743 Annex 2 (Certificat de Liberation):** CAR-OTP-2130-8379.

⁵⁶⁸ **P-1743:** CAR-OTP-2130-8362-R01 at 8369, paras. 38-39.

⁵⁶⁹ **P-1743:** CAR-OTP-2130-8362-R01 at 8370, para. 47.

⁵⁷⁰ **P-1743:** CAR-OTP-2130-8362-R01 at 8371, 8373, paras. 54, 61 and see Annex 1 CAR-OTP-2130-8377.

⁵⁷¹ **P-1743:** CAR-OTP-2130-8362-R01 at 8373, para. 62 and see Annex 2 CAR-OTP-2130-8379.

⁵⁷² **P-1180:** CAR-OTP-2043-0483-R01 at 0487-0488, paras. 25-33.

⁵⁷³ **P-1180:** CAR-OTP-2043-0483-R01 at 0488-0490, paras. 35-48.

⁵⁷⁴ **P-1180:** CAR-OTP-2043-0483-R01 at 0490-0491, paras. 49-52.

⁵⁷⁵ **P-1180:** CAR-OTP-2043-0483-R01 at 0491, paras. 53-56.

taken to Camp de Roux and detained for about 7 days.⁵⁷⁶ Afterwards, P-1180, along with 16 others, was transferred to the OCRB and was severely beaten upon arrival.⁵⁷⁷ P-1180 was detained for about 7 days at the OCRB and then was transferred to the Ngaragba prison.⁵⁷⁸ He was held in the prison throughout trial, and later found innocent and released.⁵⁷⁹

176. P-0358 was arrested in relation to the “Flyers incident” and was brought to Camp de Roux where he was interrogated and ultimately freed. P-0358 describes the detention of one hospital staff member and corroborates the detention of P-1180.⁵⁸⁰
177. P-2263 is a victim who was arrested, along with a friend, by the Seleka at his shop in BANGUI.⁵⁸¹ At the moment of his arrest, he was not aware of the reason for his detention.⁵⁸² He was put into a vehicle where he saw P-1180 and other victims and was forced to lie down on the floor.⁵⁸³ He was taken to Camp de Roux where he was beaten upon arrival and then first held in a small cell with others before being taken to a bigger cell with others.⁵⁸⁴
178. After a few days, P-2263, along with the other detainees, was taken to the OCRB.⁵⁸⁵ Upon arrival, the Seleka made him and the others in the group lie down. The Seleka mixed water and soil and put it on P-2263’s back and whipped him many times.⁵⁸⁶ Afterwards, P-2263 and the others had to run to the cell while being beaten with boots and batons.⁵⁸⁷ P-2263 was held in a very small cell with no windows. It was cramped and hot, and he received no food or medication.⁵⁸⁸ While being held at the OCRB, P-2263 visited the Tribunal⁵⁸⁹ twice. After being detained at the OCRB for

⁵⁷⁶ **P-1180:** CAR-OTP-2043-0483-R01 at 0491-0504, paras. 57-152.

⁵⁷⁷ **P-1180:** CAR-OTP-2043-0483-R01 at 0504-0505, paras. 153-163.

⁵⁷⁸ **P-1180:** CAR-OTP-2043-0483-R01 at 0505-0506, paras. 164-170.

⁵⁷⁹ **P-1180:** CAR-OTP-2043-0483-R01 at 0506, para. 171. See **P-1180 Annex 2** (Ordre de mise en liberte) : CAR-OTP-2043-0515.

⁵⁸⁰ **P-0358:** CAR-OTP-2043-0433-R01 at 0444-0447, paras. 80-95. See also **Decree:** CAR-OTP-2004-0890.

⁵⁸¹ **P-2263:** CAR-OTP-2089-1229-R01 at 1231-1232, paras. 13-18, 23.

⁵⁸² **P-2263:** CAR-OTP-2089-1229-R01 at 1232, para. 18.

⁵⁸³ **P-2263:** CAR-OTP-2089-1229-R01 at 1232-1233, paras. 20-26.

⁵⁸⁴ **P-2263:** CAR-OTP-2089-1229-R01 at 1236-1237, paras. 51-59.

⁵⁸⁵ **P-2263:** CAR-OTP-2091-3074-R01 at 3077, para. 17.

⁵⁸⁶ **P-2263:** CAR-OTP-2091-3074-R01 at 3079, para. 21.

⁵⁸⁷ **P-2263:** CAR-OTP-2091-3074-R01 at 3079, para. 22.

⁵⁸⁸ **P-2263 (2 Statement):** CAR-OTP-2091-3074-R01 at 3079-3080, para.23,26.

⁵⁸⁹ The Prosecution notes that the Tribunal is the “*Tribunal de Grande Instance*.” See **P-2263 (2 Statement):** CAR-OTP-2091-3074-R01 at 3082, paras. 33-35.

7 days, he was transferred to NGARAGBA prison where he was detained throughout the trial,⁵⁹⁰ and later released.⁵⁹¹

179. P-2295 was arrested by the Seleka at the Terminus bus station in BANGUI.⁵⁹² A boy approached him, showed him a paper about the strike people were talking about, and handed over the paper to P-2295. Then, a man in jeans asked P-2295 questions about the paper, and P-2295 was arrested and put in a Seleka vehicle.⁵⁹³ P-2295 was taken to Camp de Roux and put in a cell with other prisoners who had been arrested in connection to the paper.⁵⁹⁴ After several days at Camp de Roux, P-2295, along with others, was transferred to the OCRB.⁵⁹⁵ Upon arrival, the Seleka took off P-2295's clothes, made him lie face down and lashed him with whips covered him in mud. Then, the Seleka put P-2295 in a small cell with the others.⁵⁹⁶ P-2295 was then transferred to the NGARAGBA prison.⁵⁹⁷ He was brought many times before the Tribunal and was given a two-month suspended sentence.⁵⁹⁸

i) P-1429⁵⁹⁹

180. The material facts relevant to the arbitrary arrest and detention of P-1429, [REDACTED] are based on the personal account of P-1429⁶⁰⁰ and on the statements of P-0787, who worked as an investigator at the OCRB.⁶⁰¹

181. In mid-July 2013, P-1429 went looking for his [REDACTED] detained at the [REDACTED].⁶⁰² P-1429 was then detained in a cattle lorry for three days.⁶⁰³ [REDACTED].⁶⁰⁴ The witness states that there were four lorries in the camp; one of

⁵⁹⁰ **P-2263 (2 Statement):** CAR-OTP-2091-3074-R01 at 3083, para. 36; at 3083-3087, paras. 38-52.

⁵⁹¹ **P-2263 (2 Statement):** CAR-OTP-2091-3074-R01 at 3087, paras. 54-57. *See also* **P-2263 Annex 2 (1 Statement):** CAR-OTP-2089-1242.

⁵⁹² **P-2295:** CAR-OTP-2130-9460-R01 at 9462-9463, paras. 12-18.

⁵⁹³ **P-2295:** CAR-OTP-2130-9460-R01 at 9462-9463, paras. 12-18.

⁵⁹⁴ **P-2295:** CAR-OTP-2130-9460-R01 at 9464, paras. 19-20.

⁵⁹⁵ **P-2295:** CAR-OTP-2130-9460-R01 at 9465, para. 25.

⁵⁹⁶ **P-2295:** CAR-OTP-2130-9460-R01 at 9465, paras. 25-26.

⁵⁹⁷ **P-2295:** CAR-OTP-2130-9460-R01 at 9466, para. 28.

⁵⁹⁸ **P-2295:** CAR-OTP-2130-9460-R01 at 9466, paras. 32-34; **P-2295 Annex:** CAR-OTP-2091-3191

⁵⁹⁹ Confirmation Decision (Operative Part), para. 29 i).

⁶⁰⁰ **P-1429:** CAR-OTP-2043-0317-R01 at 0324-0327, paras. 47-71 (Fr); Annex A: CAR-OTP-2043-0331; Annex B: CAR-OTP-2043-0332.

⁶⁰¹ **P-0787:** CAR-OTP-2130-0893-R01 at 0912-0914, paras. 82-87 (Fr).

⁶⁰² **P-1429:** CAR-OTP-2049-0166-R01 at 0170-0172, paras. 20-28.

⁶⁰³ **P-1429:** CAR-OTP-2049-0166-R01 at 0172 para. 32.

⁶⁰⁴ **P-1429:** CAR-OTP-2049-0166-R01 at 0172, para. 33.

them held Seleka elements who were disciplined, and the other three held civilians.⁶⁰⁵

182. On the third day of his detention, he was interrogated [REDACTED].⁶⁰⁶ [REDACTED]. He was then [REDACTED] driven to the OCRB in a convoy [REDACTED].⁶⁰⁷ When they arrived, they were handed over to **SAID**.⁶⁰⁸

183. **SAID** issued orders about where the men should be detained, [REDACTED].⁶⁰⁹ [REDACTED].⁶¹⁰ [REDACTED].⁶¹¹

184. Even though the allegations of public unrest against the men were baseless, prosecutions were launched against them.⁶¹² They were brought before the *Tribunal de Grande Instance* for the first time after a week of detention and were released in [REDACTED] August 2013 after 21 days of detention.⁶¹³

185. [REDACTED].⁶¹⁴

186. P-0787 describes how P-1429 and others were removed from the cattle lorries. [REDACTED].⁶¹⁵ [REDACTED].⁶¹⁶

187. [REDACTED].⁶¹⁷

j) Attempted arrest of Oswald SANZE and detention of two other men⁶¹⁸

188. The material facts relating to the attempted arbitrary arrest and killing of Oswald SANZE and the subsequent arrest and detention as well as mistreatment of two men

⁶⁰⁵ **P-1429**: CAR-OTP-2049-0166-R01 at 0172, para. 36; **P-1429 Annex A**: CAR-OTP-2043-0331.

⁶⁰⁶ **P-1429**: CAR-OTP-2049-0166-R01 at 0173, para. 43.

⁶⁰⁷ **P-1429**: CAR-OTP-2049-0166-R01 at 0173-0174, paras. 45-47.

⁶⁰⁸ **P-1429**: CAR-OTP-2049-0166-R01 at 0174, para. 48.

⁶⁰⁹ **P-1429**: CAR-OTP-2049-0166-R01 at 0174-0175, para. 54.

⁶¹⁰ **P-1429**: CAR-OTP-2049-0166-R01 at 0176, paras. 65, 66.

⁶¹¹ **P-1429**: CAR-OTP-2049-0166-R01 at 0176, para. 68. *See infra*, paras. 197-199 (P-2172).

⁶¹² **P-1429**: CAR-OTP-2049-0166-R01 at 0177, paras. 70, 71.

⁶¹³ *Ibid.*

⁶¹⁴ **P-1429**: CAR-OTP-2049-0166-R01 at 0177-0178, paras. 74-77.

⁶¹⁵ **P-0787**: CAR-OTP-2036-0410-R01 at 0428, paras. 85-87.

⁶¹⁶ **P-2478**: CAR-OTP-2107-8835-R02 at 8846, para. 39.

⁶¹⁷ **P-1762**: CAR-OTP-2130-2147-R01 at 2154-2155, paras. 31-38 (Fr); **P-1420**: CAR-OTP-2130-1827-R01 at 1846, para. 101 (Fr); **P-2563**, CAR-OTP-2118-2807-R01 at 2811, lns. 132-134; *see also* **CAR Ministry of Defence List**: CAR-OTP-2069-0332 (list of Seleka registered for entry into FACA dated 10 October 2013 (at tab “Situation Globale” which references Moussa ASSIMEH as responsible of the BSPC with 35 elements under his responsibility).

⁶¹⁸ Confirmation Decision (Operative Part), para. 29 j).

perceived to be associated with SANZE is based on the account of P-2931,⁶¹⁹ P-2105,⁶²⁰ and documentary evidence.⁶²¹ The evidence demonstrates that on the evening of [REDACTED] July 2013, **SAID** sent OCRB-Seleka to arrest and detain Oswald SANZE, a FACA member, as he suspected him of being a BOZIZE supporter. The OCRB-Seleka shot and killed SANZE and arrested P-2931 and a man named [REDACTED], two men who were subsequently held at the OCRB in dire conditions and released on [REDACTED] July 2013 without being formally charged.

189. P-2931, [REDACTED], states that on [REDACTED] July 2013 he was at the house [REDACTED] Oswald SANZE [REDACTED] in the evening.⁶²² SANZE and a youth named [REDACTED] were asleep.⁶²³ Seleka from OCRB armed with Kalashnikovs came around midnight and knocked down the door.⁶²⁴ The witness was taken outside the house by the Seleka and heard gunshots from within the house.⁶²⁵ He heard [REDACTED] SANZE say “*what have I done?*”. When the witness was made to climb on a truck, SANZE was also thrown into the back. SANZE’s blood was running down P-2931’s clothes, and he heard SANZE express agonizing pain.⁶²⁶ The Seleka drove to the morgue of *Hôpital Communautaire de Bangui* and left SANZE there.⁶²⁷
190. It was around 1:00 hours in the morning when they arrived at the OCRB. A Seleka member who was sitting on a chair under a tree in the courtyard, ordered in Sango that the witness be tied. This Seleka seemed to be one of their leaders. He was of medium height, burly, of dark complexion and had short hair. He was dressed in a military uniform.⁶²⁸
191. The witness states that another Seleka then ordered him to sit down and to extend his arms along his legs. This Seleka tied his arms and his legs with a rope called a

⁶¹⁹ **P-2931**: CAR-OTP-2135-2245-R01 (Fr.); **Annex A**: CAR-OTP-2135-2258-R01; **P-2931 (2 Statement)**: CAR-OTP-2135-2260-R01 (clarifying dates in first Statement).

⁶²⁰ **P-2105**: CAR-OTP-2081-0037-R01 at 0043, para. 30 (Fr).

⁶²¹ CAR-OTP-2128-0750-R01 (Complaint). *See infra*, para. 195-196.

⁶²² **P-2931**: CAR-OTP-2135-2245-R01 at 2248, paras. 17-18 (Fr).

⁶²³ **P-2931**: CAR-OTP-2135-2245-R01 at 2248, para. 19 (Fr).

⁶²⁴ **P-2931**: CAR-OTP-2135-2245-R01 at 2248, paras. 20-21 (Fr).

⁶²⁵ **P-2931**: CAR-OTP-2135-2245-R01 at 2248-2249, paras. 23-24 (Fr).

⁶²⁶ **P-2931**: CAR-OTP-2135-2245-R01 at 2249, paras. 24, 26-27 (Fr).

⁶²⁷ **P-2931**: CAR-OTP-2135-2245-R01 at 2249-2250, paras. 28-33 (Fr).

⁶²⁸ **P-2931**: CAR-OTP-2135-2245-R01 at 2250-2251, paras. 37 (Fr).

“*roselle*”. The witness could not move anymore and lay down on his side. The Seleka who was sitting on the chair got up and started interrogating the witness. He asked him “where is the weapon”? P-2931 answered “which weapon? I am only a student”. The Seleka replied “the weapon of your brother?” and then slapped him.⁶²⁹ Another Seleka then said that it was not him they had to ask but the other one. P-2931 then realised that they were referring to, [REDACTED] who he had not seen but was behind him. They were questioning him in Sango but the witness could not hear them. The Seleka who slapped him then ordered that P-2931 be put in the *sous-sol*. As they dragged him on the ground, the witness asked that they inform his family. But another Seleka that seemed to be their leader ordered that he be put in a cell instead.⁶³⁰ The witness was untied and put into a very small (3m2) cell. The cell contained approximately 13 detainees and was overwhelmingly crowded. [REDACTED] was detained in another cell. In the cell, the witness learned that **SAID** was in charge.⁶³¹

192. During his detention, the witness took care of another detainee who could not use his hands. The detainee told him that the Seleka had tied him. P-2931 could see the scars left by the ropes around the wrists. Both of the man’s hands were paralysed. The witness helped the detainee to eat and to go to the toilet. This detainee told P-2931 that he was [REDACTED] and that he had worked with [REDACTED].⁶³² According to P-2931 all the detainees in the cell were Christian. Food was provided to them by family members as they would only sometimes receive this from the Seleka.⁶³³
193. The witness stated that on [REDACTED] July 2013, at around 15:00 hours, [REDACTED].⁶³⁴
194. P-2105 states that **SAID** “sent some soldiers” to arrest a FACA suspected of plotting against the Seleka. The FACA fled but the Seleka fired at him. The man was wounded and taken to a hospital. P-2105 was not present at the operation but

⁶²⁹ **P-2931**: CAR-OTP-2135-2245-R01 at 2251, paras. 38-40 (Fr).

⁶³⁰ *Ibid.*

⁶³¹ **P-2931**: CAR-OTP-2135-2245-R01 at 2251, para. 41 (Fr).

⁶³² **P-2931**: CAR-OTP-2135-2245-R01 at 2252, paras. 45-46 (Fr).

⁶³³ **P-2931**: CAR-OTP-2135-2245-R01 at 2253, paras. 51-52 (Fr).

⁶³⁴ **P-2931**: CAR-OTP-2135-2245-R01 at 2253, para. 54 (Fr). *See also* **P-2931 (2 Statement)**: CAR-OTP-2135-2260-R01 at 2262-2263, paras. 17-18.

received his information from the Seleka in charge of the operation, [REDACTED].⁶³⁵

195. [REDACTED],⁶³⁶ [REDACTED].⁶³⁷ He is also listed as assigned to the OCRB in other sources.⁶³⁸

196. On [REDACTED] July 2013, Oswald SANZE was registered as deceased in the *Hopital Communautaire* morgue register. The register notes “TUE PAR BALLE O.C.R.B”, “Militaire FOUH” and gives the name of [REDACTED].⁶³⁹

k) P-2172⁶⁴⁰

197. P-2172, who is [REDACTED] in the CAR, provides a personal account of his arbitrary arrest and detention.⁶⁴¹ He states that he was arrested on [REDACTED] August 2013 after he [REDACTED].⁶⁴² P-2172’s [REDACTED] was apparently perceived as critical of the Seleka regime and triggered a complaint against P-2172, addressed to President DJOTODIA and then to the Minister of the Security, ADAM. One week after the [REDACTED], P-2172 was summoned [REDACTED].⁶⁴³

198. P-2172 was taken to the OCRB from where he was able to call [REDACTED] who came to support his release.⁶⁴⁴ At 22:00 hours, a Seleka General took P-2172 to the [REDACTED]. ADAM was also present and accused P-2172 of plotting a coup d’état. [REDACTED] P-2172 firmly denied any wrongdoing. [REDACTED], ADAM ordered to release P-2172 [REDACTED]. [REDACTED].⁶⁴⁵

199. P-2172’s account is corroborated by P-0338⁶⁴⁶ and P-1429.⁶⁴⁷

⁶³⁵ **P-2105:** CAR-OTP-2081-0037-R01 at 0043, para. 30 (Fr).

⁶³⁶ CAR-OTP-2034-3096.

⁶³⁷ CAR-OTP-2067-0120 at 0182, ln. 2339.

⁶³⁸ CAR-OTP-2069-0332; CAR-OTP-2081-0062-R01; CAR-OTP-2100-0825.

⁶³⁹ **Ledger of Hôpital Communautaire:** CAR-OTP-2044-0734 at 0790, ln. 416; **Media Article:** CAR-OTP-2074-0080 at 0084.

⁶⁴⁰ Confirmation Decision (Operative Part), para. 29 k).

⁶⁴¹ **P-2172:** CAR-OTP-2130-6313-R01 at 6316-6317, paras. 15-22 (Fr).

⁶⁴² **P-2172:** CAR-OTP-2130-6313-R01 at 6316, paras. 15-18 (Fr).

⁶⁴³ **P-2172:** CAR-OTP-2130-6313-R01 at 6316, paras. 17 (Fr).

⁶⁴⁴ **P-2172:** CAR-OTP-2130-6313-R01 at 6316, paras. 19-20 (Fr).

⁶⁴⁵ **P-2172:** CAR-OTP-2130-6313-R01 at 6316-6317, paras. 21-23 (Fr).

⁶⁴⁶ **P-0338:** CAR-OTP-2068-0244-R01 at 268 paras. 140-141 (Eng).

⁶⁴⁷ **Media article:** CAR-OTP-2074-0366; **P-1429:** CAR-OTP-2043-0317-R01 at 0326, para. 68 (Fr.)

1) P-2519⁶⁴⁸

200. The material facts of the arbitrary arrest and detention of P-2519 are based on his personal account.⁶⁴⁹ On or about [REDACTED] August P-2519, [REDACTED] and 4 elements at a bus stop in Bangui and taken to the OCRB. During his detention he was tied in the *arbatachar* method and beaten almost every day.
201. P-2519 was arrested by a Seleka colonel named [REDACTED] and four elements at a bus stop in Bangui and taken to the OCRB.⁶⁵⁰ While the witness estimates that his detention occurred [REDACTED] after the arrival of the Seleka in Bangui, [REDACTED].⁶⁵¹
202. At the OCRB, a Seleka Captain asked him if he was a [REDACTED]. When the witness confirmed that he was, the Captain stated: ‘Then you are the type of people that we are looking for’.⁶⁵² P-2519 was registered and made to take off his clothes. His mobile phone, ID card and money were also taken and never returned.⁶⁵³
203. Seleka elements associated with [REDACTED] and with the OCRB beat him with rifle butts. When he fell, they tied him using the *arbatachar* method, poured water on him, and continued to beat him. The Seleka also whipped him with whips made of horsehide.⁶⁵⁴ The witness states that both his hands still sometimes feel like they are paralysed. He passed out during the beating.⁶⁵⁵
204. When the Seleka untied him, he could not walk and had to crawl to a cell.⁶⁵⁶ The cell was crowded as there were 17 other detainees in the cell already.⁶⁵⁷
205. During his detention, P-2519 was whipped almost every evening by a Sudanese Colonel.⁶⁵⁸ P-2519 was not informed of the reason for his arrest, not read his rights, and did not have access to legal counsel.⁶⁵⁹ P-2519 did not receive independent

⁶⁴⁸ Confirmation Decision (Operative Part), para. 29 l).

⁶⁴⁹ **P-2519:** CAR-OTP-2130-5310-R01 at 5316-5324, paras. 34-88 (Fr).

⁶⁵⁰ **P-2519:** CAR-OTP-2127-9471-R01 at 9476, paras. 31-32 (Eng).

⁶⁵¹ See *supra*, para. 41. See also **Radio Communiqué:** CAR-OTP-2070-0181 [REDACTED].

⁶⁵² **P-2519:** CAR-OTP-2127-9471-R01 at 9477, paras. 41-42 (Eng).

⁶⁵³ **P-2519:** CAR-OTP-2127-9471-R01 at 9478, paras. 44-45 (Eng).

⁶⁵⁴ **P-2519:** CAR-OTP-2127-9471-R01 at 9478, paras. 46-49 (Eng).

⁶⁵⁵ **P-2519:** CAR-OTP-2127-9471-R01 at 9479, para. 55 (Eng).

⁶⁵⁶ **P-2519:** CAR-OTP-2127-9471-R01 at 9479, para. 58 (Eng).

⁶⁵⁷ **P-2519:** CAR-OTP-2127-9471-R01 at 9479, para. 59 (Eng).

⁶⁵⁸ **P-2519:** CAR-OTP-2127-9471-R01 at 9480, paras. 61-65 (Eng).

⁶⁵⁹ **P-2519:** CAR-OTP-2127-9471-R01 at 9482, para. 76 (Eng).

medical care for his injuries.⁶⁶⁰ His family was not informed of his arrest by the OCRB.⁶⁶¹

206. Together with [REDACTED] other detainees, P-2519 was transferred to the Brigade de Recherche (SRI) and then taken to Ngaragba prison.⁶⁶² P-2519 stayed at Ngaragba for two weeks until the Prosecutor signed a document to release him for medical reasons.⁶⁶³ A week after his release he was summoned to the Prosecutor at the Court, where P-2519 explained the situation with [REDACTED]. The Prosecutor alleged that P-2519 had joined the Seleka. In the end, P-2519 was fined [REDACTED].⁶⁶⁴

m) P-3053, P-3056, P-3064 and one other man⁶⁶⁵

207. The material facts related to the arbitrary arrest, detention and mistreatment of P-3053, P-3056, [REDACTED] (P-3064) and [REDACTED] are based on the accounts provided by P-3053,⁶⁶⁶ P-3056⁶⁶⁷ and P-3064.⁶⁶⁸ The evidence shows that all four men were arrested on [REDACTED] August 2013 while [REDACTED].

208. According to P-3053, **SAID** and his elements detained the four men in the underground cell at the OCRB. While at the OCRB, P-3053 and the others were beaten badly. P-3053 stayed in the underground cell until the end of August.⁶⁶⁹ P-3053 is known by the nickname of [REDACTED].⁶⁷⁰

209. In addition to P-3053's account, P-3056 and P-3064 also provide additional details.

210. P-3056 states that on 18 August 2013 he attended [REDACTED] together with his family. Also present were cousins of his, [REDACTED] (P-3064), [REDACTED] (P-3053), and a friend of [REDACTED] named [REDACTED].⁶⁷¹ Armed Seleka came to the funeral at around 23:30 hours, hitting some of the guests with the butts

⁶⁶⁰ **P-2519:** CAR-OTP-2127-9471-R01 at 9483, para. 84 (Eng).

⁶⁶¹ **P-2519:** CAR-OTP-2127-9471-R01 at 9482, para. 77 (Eng).

⁶⁶² **P-2519:** CAR-OTP-2127-9471-R01 at 9484, paras. 89-90 (Eng).

⁶⁶³ **P-2519:** CAR-OTP-2127-9471-R01 at 9484-9485, para. 93 (Eng).

⁶⁶⁴ **P-2519:** CAR-OTP-2127-9471-R01 at 9485, para. 95-96 (Eng). *See also* **Plumitif TGI:** CAR-OTP-2136-0699-R01 at 0843.

⁶⁶⁵ Confirmation Decision (Operative Part), para. 29 m).

⁶⁶⁶ **P-3053:** CAR-OTP-2130-6359-R01 at 6362-6368, paras. 16-53. incl. Annex A-C.

⁶⁶⁷ **P-3056:** CAR-OTP-2130-6639-R01 at 6644, para. 27, at 6649, para. 51 (Fr).

⁶⁶⁸ **P-3064:** CAR-OTP-2135-2824-R01 (Fr.).

⁶⁶⁹ **P-3053:** CAR-OTP-2130-6639-R01 at 6643, paras. 20-21 (Fr).

⁶⁷⁰ CAR-OTP-2134-1593-R02.

⁶⁷¹ **P-3056:** CAR-OTP-2130-6639-R01 at 6343, paras. 20-24 (Fr).

of their guns, and arrested [REDACTED], P-3064, [REDACTED] and P-3056.⁶⁷² P-3056 and the other detainees were brought to the OCRB NGOUCIMENT.⁶⁷³ While they were registered at the OCRB NGOUCIMENT, they asked the Seleka Lieutenant for the reason of their arrest. The Seleka answered that one of the four was in connection with BOZIZE and NGAIKOUESSÉ.⁶⁷⁴ On Monday [REDACTED] August 2013, around 09:00 hours, the head of the Central OCRB, Mahamat **SAID** came to the OCRB NGOUCIMENT and asked the Lieutenant to transfer P-3056 and the other detainees arrested with him to the OCRB Central.⁶⁷⁵ That same day, on Monday [REDACTED] August 2013, they were transferred to the OCRB Central in BANGUI by a car driven by **SAID** himself.⁶⁷⁶

211. At the OCRB, the group was registered and made to go down into the underground cell.⁶⁷⁷ 15 million CFA francs which P-3056 was carrying from the sale of a property was taken from him.⁶⁷⁸ P-3056 describes the underground cell and states it was 4m x 4m with a very small hole in the wall. There was only cardboard to sleep on. Around noon they would have some light but after 15:00 hours they were in the dark. There was no toilet, and the cell had rats and lizards.⁶⁷⁹
212. On [REDACTED] August 2013 around midnight, **SAID** entered the OCRB building with Seleka members and ordered them to remove the detainees from the underground cell. He interrogated them, asking for their names and profession. He sent the other detainees back to the cell, and only P-3056 stayed. **SAID** put a plastic bag over his head, handcuffed him and put him in the front seat of the vehicle. While driving, **SAID** pressured him to answer his questions as they drove for two hours.⁶⁸⁰
213. **SAID** interrogated P-3056 and told him that one of the group had connections with BOZIZE and NGAIKOUESSE. **SAID** asked him about his ethnicity and then told him that he was hiding information from him. **SAID** told him to say his last prayers. P-3056 begged for his life and told **SAID** that he was innocent. When they were

⁶⁷² **P-3056:** CAR-OTP-2130-6639-R01 at 6343, paras. 25-28 (Fr).

⁶⁷³ **P-3056:** CAR-OTP-2130-6639-R01 at 6344, para. 29 (Fr).

⁶⁷⁴ **P-3056:** CAR-OTP-2130-6639-R01 at 6645, para. 31 (Fr).

⁶⁷⁵ **P-3056:** CAR-OTP-2130-6639-R01 at 6645, paras. 32-36 (Fr).

⁶⁷⁶ **P-3056:** CAR-OTP-2130-6639-R01 at 6645, para. 36 (Fr).

⁶⁷⁷ **P-3056:** CAR-OTP-2130-6639-R01 at 6645, para. 37 (Fr).

⁶⁷⁸ **P-3056:** CAR-OTP-2130-6639-R01 at 6646, para. 38 (Fr).

⁶⁷⁹ **P-3056:** CAR-OTP-2130-6639-R01 at 6646, para. 39 (Fr).

⁶⁸⁰ **P-3056:** CAR-OTP-2130-6639-R01 at 6646-6647, paras. 41-42 (Fr).

near the BENZ-VI school, **SAID** told P-3056 “Be ready, I will kill you” (“*Prepares-toi, je vais te tuer*”) and stopped asking questions.⁶⁸¹

214. Outside the Primature, they stopped in front of a building and P-3056 was asked to get out of the vehicle. **SAID** took his gun and installed a silencer. **SAID** ordered him to walk forward. P-3056 walked a few steps and then stopped. **SAID** hit the back of P-3056’s head with the pistol grip, causing P-3056 to fall on the ground and lose consciousness. **SAID** ordered him to get up but P-3056 could not so **SAID** ordered his elements to take him to the Commissariat of the 2^{ème} *arrondissement*. **SAID** told his elements to kill the witness, put him in a bag and throw him in the OUBANGUI river.⁶⁸² Afterwards, P-3056 was driven back to the OCRB and put into the underground cell.⁶⁸³
215. P-3056 also provides an original release note which references **SAID** as the one ordering the release and which is stamped “[REDACTED] AOU 2013”.⁶⁸⁴ P-3056 also recognised **SAID** on several photographs shown to him.⁶⁸⁵
216. P-3064 corroborates the account of P-3056 and P-3053. He also describes being arrested around 23:00hrs at the house of [REDACTED].⁶⁸⁶ He equally describes how the Seleka arrived and arrested them. They were all made to mount a vehicle.⁶⁸⁷ On the way one Seleka asked: “*Qui est [REDACTED]?*” (which was a reference to P-3053) but none of them answered.⁶⁸⁸ He also describes that they were first taken to OCRB Ngouciment and then to OCRB Centrale.⁶⁸⁹
217. The next day, P-3056 states they were brought to the OCRB and made to enter the main building by the “chief of OCRB”.⁶⁹⁰ They were made to undress and enter the underground cell.⁶⁹¹ The underground cell smelled bad, had no light, and was full of flies and insects. There was no toilet.⁶⁹² They were able to receive food from

⁶⁸¹ **P-3056:** CAR-OTP-2130-6639-R01 at 6647-6648, paras. 42-47 (Fr).

⁶⁸² **P-3056:** CAR-OTP-2130-6639-R01 at 6648, para. 47 (Fr).

⁶⁸³ **P-3056:** CAR-OTP-2130-6639-R01 at 6648, paras. 48-49 (Fr).

⁶⁸⁴ **P-3056:** CAR-OTP-2130-6639-R01 at 6643-6651, paras. 20-65 (Fr.); **Annex C:** CAR-OTP-2130-6657-R01.

⁶⁸⁵ **P-3056:** CAR-OTP-2130-6639-R01 at 6652, para. 72 (Fr). (CAR-OTP-2094-2006; CAR-OTP-2069-3226; CAR-OTP-2069-3227).

⁶⁸⁶ **P-3064:** CAR-OTP-2135-2824-R01 at 2826-2827, paras. 15-18 (Fr).

⁶⁸⁷ **P-3064:** CAR-OTP-2135-2824-R01 at 2828, para. 22 (Fr).

⁶⁸⁸ **P-3064:** CAR-OTP-2135-2824-R01 at 2828, para. 23 (Fr).

⁶⁸⁹ **P-3064:** CAR-OTP-2135-2824-R01 at 2829, para. 28-30 (Fr).

⁶⁹⁰ **P-3064:** CAR-OTP-2135-2824-R01 at 2829, paras. 30-32 (Fr).

⁶⁹¹ **P-3064:** CAR-OTP-2135-2824-R01 at 2830, paras. 33-34 (Fr).

⁶⁹² **P-3064:** CAR-OTP-2135-2824-R01 at 2830, paras. 36 (Fr).

family visits.⁶⁹³ P-3064 corroborates that P-3056 was taken out of the cell by the Seleka.⁶⁹⁴ P-3064 then recounts a meeting with a [REDACTED] Prosecutor and that they signed declarations.⁶⁹⁵ Afterwards, they were made to return to the underground cell. The next day, the [REDACTED] Prosecutor returned to take them to the Court, where they were liberated by a judge as no allegations had been brought against them.

218. P-3064 recognised the OCRB building including the underground cell on photos.⁶⁹⁶ He also recognised the “chef de l’OCRB” in a photo which shows **SAID**.⁶⁹⁷ P-3064 made a complaint related to his arrest and detention contemporaneously.⁶⁹⁸

219. Witness P-3053, who is deceased, stated that he was detained at the OCRB in the underground cell by **SAID** and Seleka elements under his command in mid-August 2013 with three other men.⁶⁹⁹ Thus, P-3053 corroborates the testimony of P-3056 and P-3064 in this regard.⁷⁰⁰ P-3053 also describes **SAID** who presented himself as “Director of the OCRB Centrale”.⁷⁰¹ He remembers a detainee named “[REDACTED]” who was tied *arbatachar* to the point he was paralysed, which refers to P-0547.⁷⁰² P-3053 also corroborates the account of P-3056 regarding the attempted or mock execution by **SAID**.⁷⁰³ P-3053 states that they were liberated on 30 August 2013.⁷⁰⁴

n) [REDACTED]⁷⁰⁵

220. The material facts relating to the incident of the [REDACTED] is based on the account [REDACTED].⁷⁰⁶ The evidence provided by this witness demonstrates that on or about [REDACTED] August 2013, **SAID** and RAKISS arrested a young

⁶⁹³ **P-3064**: CAR-OTP-2135-2824-R01 at 2831, paras. 38 (Fr).

⁶⁹⁴ **P-3064**: CAR-OTP-2135-2824-R01 at 2830, paras. 40-41 (Fr).

⁶⁹⁵ **P-3064**: CAR-OTP-2135-2824-R01 at 2833, paras. 49-50 (Fr).

⁶⁹⁶ **P-3064**: CAR-OTP-2135-2824-R01 at 2836-2837, para. 6568 (Fr).

⁶⁹⁷ **P-3064**: CAR-OTP-2135-2824-R01 at 2838, para. 76 (Fr).

⁶⁹⁸ **CEJP complaint**: CAR-OTP-2002-1549-R01 at 1550 (Fr).

⁶⁹⁹ **P-3053**: CAR-OTP-2130-6359-R01 at 6366, paras. 43-45 (Fr).

⁷⁰⁰ **P-3056**: CAR-OTP-2130-6639-R01 at 6643-6651, paras. 20-65; **P-3056 Annex C**: CAR-OTP-2130-6657-R01.

⁷⁰¹ **P-3053**: CAR-OTP-2130-6359-R01 at 6363-6364, paras. 27-33 (31) (Fr).

⁷⁰² **P-3053**: CAR-OTP-2130-6359-R01 at 6366-6367, paras. 46-47 (Fr). The Prosecution submits this is a reference to P-0547 who also speaks about [REDACTED], *see infra*, para. 233.

⁷⁰³ **P-3053**: CAR-OTP-2130-6359-R01 at 6368-6369, paras. 54-60 (Fr).

⁷⁰⁴ **P-3053**: CAR-OTP-2130-6359-R01 at 6370-6371, paras. 65-69 (Fr).

⁷⁰⁵ Confirmation Decision (Operative Part), para. 29 n).

⁷⁰⁶ **P-1737**: CAR-OTP-2130-2086-R01 at 2098-2099, paras. 58-59 (Fr).

Christian [REDACTED] and brought him into the OCRB because they believed him to support BOZIZE. [REDACTED] ordered his beating and subsequently ordered **SAID** to detain the [REDACTED] in the underground cell. The [REDACTED] was released two days later.

o) P-0547⁷⁰⁷

221. The material facts regarding the arbitrary arrest, detention and torture of P-0547 are based on his personal account,⁷⁰⁸ photographic documentation,⁷⁰⁹ medical reports,⁷¹⁰ as well as the accounts of other witnesses.⁷¹¹ His account is corroborated by documentary evidence, including [REDACTED].⁷¹² This evidence demonstrates that P-0547 was detained in the underground cell by **SAID** and severely mistreated on the orders of **SAID**'s subordinate, YAYA.
222. P-0547, who is [REDACTED] and of Gbaya ethnicity, was arrested by armed Seleka while he stopped to buy cigarettes along the road that runs to Hopital Amitie on [REDACTED] August 2013.⁷¹³ P-0547 was asked if he was a military. He denied that he was and explained that he was a civilian; however, the Seleka did not believe him. He was first let go but then stopped again and arrested by AL BACHAR.⁷¹⁴ Once at the OCRB, General BACHAR violently slapped P-0547 and told him “[y]ou BOZIZE’s mercenaries, were are going to kill you, one by one”. P-0547 punched BACHAR back and around 10 Seleka men started to beat the witness with rifle butts. The Seleka told the witness that he was being arrested because the witness was an intelligence agent for BOZIZE and Levy YAKETE.⁷¹⁵

⁷⁰⁷ Confirmation Decision (Operative Part), para. 29 o).

⁷⁰⁸ **P-0547**: CAR-OTP-2018-0389-R01 at 0394-0403, paras. 29-98 (Fr); CAR-OTP-2078-0292-R01 at 0294-0303, paras. 11-51 (Fr).

⁷⁰⁹ CAR-OTP-2018-0584; CAR-OTP-2018-0586; CAR-OTP-2018-0588, 0590, 0592, 0594, 0596 and 0598; CAR-OTP-2018-0600 and CAR-OTP-2018-0602.

⁷¹⁰ **P-0547** Medical records: CAR-OTP-2111-0075; CAR-OTP-2111-0079; CAR-OTP-2111-0082; CAR-OTP-2111-0083; CAR-OTP-2111-0084; CAR-OTP-2111-0086.

⁷¹¹ **P-0787**: CAR-OTP-2130-0893-R01 at 0908, paras. 61-63 (Fr); **P-0338**: CAR-OTP-2130-5761-R01 at 5783, 5784, paras. 121-125 (Fr); **P-1432**: CAR-OTP-2050-0172-R01 at 0178-0179, para. 45; 55 (Fr); **P-1762**: CAR-OTP-2073-0568-R01 at 0579, paras. 62-63, 65, 70, 72-74 and 77.

⁷¹² **Materials French Defence Ministry**: CAR-OTP-2102-0614-R02 at 0615; **Photos**: CAR-OTP-2102-0637.

⁷¹³ **P-0547 (1 Statement)**: CAR-OTP-2025-0566-R01 at 0570, paras. 14-20; at 0572-0573, paras. 29-37 (Eng).; **P-0547 (2 Statement)**: CAR-OTP-2084-0036-R01 at 0039, para. 11 (Eng).

⁷¹⁴ **P-0547 (1 Statement)**: CAR-OTP-2025-0566-R01 at 0572-0573, paras. 29-37 (Eng).

⁷¹⁵ **P-0547 (1 Statement)**: CAR-OTP-2025-0566-R01 at 0573, paras. 38, 41 (Eng); **P-0547 (2 Statement)**: CAR-OTP-2084-0036-R01 at 0040, para. 13 (Eng).

223. P-0547 was first detained in cell G3, where he met a young soldier called [REDACTED].⁷¹⁶ P-0547 describes that the Seleka roughly tied his arms behind his back, pulling on his shoulders. The Seleka tied up P-0547's legs behind him very tightly so that they were touching his elbows. P-0547 stated that, in the Seleka jargon, they called this "*Arbatachar*". YAYA pointed a weapon at his head. P-0547 begged to be released and then proceeded to insult the Seleka and asked to be killed. He was then also beaten with rifle butts.⁷¹⁷ The Seleka hung P-0547 from the forked posts on the common wall between the OCRB and the now MOOV headquarters.⁷¹⁸
224. P-0547 stated that the Seleka men took him to the underground cell.⁷¹⁹ The underground cell was small, like a cellar. The day after P-0547's torture, he could no longer feel his legs or arms.⁷²⁰ YAYA provided medical assistance to P-0547.⁷²¹ The witness was able to leave the basement cell to take his medicines in the room above the basement.⁷²²
225. P-0547 said that about two days before his release, he was in the room above the basement cell taking his medication. A [REDACTED] opened the door, saw the witness, and called [REDACTED] who came to see him. Shortly after, P-0547 was escorted to [REDACTED] office, and there he saw [REDACTED],⁷²³ who took pictures of him. The witness was then taken to the [REDACTED] so that [REDACTED] could take his statement. Afterwards, YAYA and TAHIR took the witness back to the underground cell. On the way to the basement cell, the witness passed through SAID's office. YAYA explained the situation to SAID and he replied: "[t]hings are simple, but if they want to complicate things, we will complicate things".⁷²⁴

⁷¹⁶ **P-0547 (1 Statement):** CAR-OTP-2025-0566-R01 at 0573, para. 43; **P-0547 (2 Statement):** CAR-OTP-2084-0036-R01 at 0041, para. 17 (Eng).

⁷¹⁷ **P-0547 (1 Statement):** CAR-OTP-2025-0566-R01 at 0575, paras. 56-60 (Eng). **P-0547 (2 Statement):** CAR-OTP-2084-0036-R01 at 0043, paras. 25-26 (Eng).

⁷¹⁸ **P-0547 (2 Statement):** CAR-OTP-2084-0036-R01 at 0043, paras. 25-26 (Eng).

⁷¹⁹ **P-0547 (1 Statement):** CAR-OTP-2025-0566-R01 at 0576, para. 63, 64 (Eng); **P-0547 (2 Statement):** CAR-OTP-2084-0036-R01 at 0042, para. 23-24 (Eng).

⁷²⁰ **P-0547 (2 Statement):** CAR-OTP-2084-0036-R01 at 0043, para. 28 (Eng).

⁷²¹ **P-0547 (2 Statement):** CAR-OTP-2084-0036-R01 at 0043, para. 30 (Eng).

⁷²² **P-0547 (1 Statement):** CAR-OTP-2025-0566-R01 at 0579, paras. 91, 92 (Eng); **P-0547 (2 Statement):** CAR-OTP-2084-0036-R01 at 0043, para. 30 (Eng).

⁷²³ See also **P-2280:** CAR-OTP-2116-0725-R01.

⁷²⁴ **P-0547 (2 Statement):** CAR-OTP-2084-0036-R01 at 0046, paras. 39-40 (Eng).

226. On 23 August 2013, the Seleka asked P-0547 about the content of his communications with his relatives and family in relation to the Seleka regime. The Seleka also told P-0547 they knew about his communication with RFI, said that they had his telephone data, and accused P-0547 of recruiting mercenaries abroad.⁷²⁵
227. P-0547 was taken to CAMP DE ROUX by TAHIR and YAYA.⁷²⁶ He spent only a few hours at CAMP DE ROUX and saw DJOTODIA and many Seleka members. P-0547 describes seeing about 20 people kneeling in a row in the middle of the courtyard. DJOTODIA interrogated them one by one, and the witness remembers the killing of at least five prisoners. P-0547 describes being taken back to the OCRB that same night.⁷²⁷ On the way back, YAYA asked him for forgiveness, and TAHIR explained that they are using Tramadol.⁷²⁸
228. On the night of 30 August 2013, P-0547 stated that Seleka soldiers fetched him, put a hood over his head, and put him into a pick-up lorry.⁷²⁹ After being driven for a while, the Seleka put P-0547 into a container where a man named [REDACTED] was also held. P-0547 states that he couldn't take his hood off because his hands were completely paralysed, although not tied up. P-0547 does not remember how long he spent in this place. Later, the Seleka fetched the witness and took him back to the OCRB.⁷³⁰
229. Once back at the OCRB, P-0547 was imprisoned again in the cell in the basement. Two or three hours later, the Seleka came and took out the prisoners from the basement and took them to the cells in the OCRB courtyard.⁷³¹
230. P-0547 describes his release from the OCRB on 31 August 2013. He states that there was a ceremony at the OCRB in the presence of governmental authorities around

⁷²⁵ **P-0547 (1 Statement):** CAR-OTP-2025-0566-R01 at 0577-0578, paras. 78, 83 (Eng).

⁷²⁶ **P-0547 (1 Statement):** CAR-OTP-2025-0566-R01 at 0580, para. 99 (Eng).

⁷²⁷ **P-0547 (1 Statement):** CAR-OTP-2025-0566-R01 at 0581-0582, paras. 101-108 (Eng); **P-0547 (2 Statement):** CAR-OTP-2084-0036-R01 at 0046, paras. 41 (Eng).

⁷²⁸ **P-0547 (2 Statement):** CAR-OTP-2084-0036-R01 at 0047, para. 47 (Eng).

⁷²⁹ **P-0547 (1 Statement):** CAR-OTP-2025-0566-R01 at 0584, paras. 123 (Eng).

⁷³⁰ **P-0547 (1 Statement):** CAR-OTP-2025-0566-R01 at 0584, paras. 124-130 (Eng).

⁷³¹ **P-0547 (1 Statement):** CAR-OTP-2025-0566-R01 at 0585, paras. 133-134 (Eng).

this time.⁷³² When the authorities left, TOLMO opened the cell doors and recognised P-0547 and [REDACTED] and told them they were free.⁷³³

231. P-0547 was paralysed for nine months after his release from prison.⁷³⁴

232. P-0547 names TAHIR, YAYA and SAID.⁷³⁵ P-0547 also identified AL BACHAR in a photo.⁷³⁶

233. P-0547 also names other men he was detained with, including [REDACTED]⁷³⁷ [REDACTED]⁷³⁸ [REDACTED]⁷³⁹, ⁷⁴⁰ [REDACTED]⁷⁴¹, [REDACTED]⁷⁴² [REDACTED].⁷⁴³ He states that there was also a dead body in the underground cell.⁷⁴⁴

234. P-0547 describes a Seleka General who he referred to as [REDACTED]. While P-0547 is the only witness who named this General, other witnesses describe him similarly.⁷⁴⁵

235. P-2280, [REDACTED] in June 2013 and states that [REDACTED] he visited the OCRB seven or eight times, [REDACTED] and found the OCRB run by Seleka rather than career police officers.⁷⁴⁶ He noted that [REDACTED], the OCRB was run by the Seleka.⁷⁴⁷

⁷³² **P-0547 (1 Statement):** CAR-OTP-2025-0566-R01 at 0585, paras. 135 (Eng).

⁷³³ **P-0547 (1 Statement):** CAR-OTP-2025-0566-R01 at 0586, paras. 138-143 (Eng); **P-0547 (2 Statement):** CAR-OTP-2084-0036-R01 at 0047, para. 49 (Eng).

⁷³⁴ **P-0547 (1 Statement):** CAR-OTP-2025-0566-R01 at 0587, para. 150 (Eng).

⁷³⁵ **P-0547:** CAR-OTP-2018-0389-R01 at 0408, para. 137 (Fr).

⁷³⁶ **P-0547:** CAR-OTP-2018-0389-R01 at 0412, para. 170 (Fr); **P-0547 Annex 6:** CAR-OTP-2018-0431; P-0547: CAR-OTP-2078-0292-R01 at 0295, para. 12; P-0547 Photos: CAR-OTP-2018-0431; CAR-OTP-2018-0443; CAR-OTP-2018-0445.

⁷³⁷ **P-0547:** CAR-OTP-2018-0389-R01 at 0399, para. 73 (Fr).

⁷³⁸ **P-1762:** CAR-OTP-2130-2147-R01 at 2157-2165, paras. 47-88 (Fr).

⁷³⁹ **P-0547:** CAR-OTP-2018-0389-R01 at 0398, 0402, paras. 63-66, 90; **P-0547:** CAR-OTP-2078-0292-R01 at 0299, para. 34; **P-3053:** CAR-OTP-2130-6359-R01 at 6362, para. 24; **P-3056:** CAR-OTP-2130-6639-R01 at 6643, 6644, 6649, paras. 21-24, 27, 51.

⁷⁴⁰ **P-0547:** CAR-OTP-2078-0292-R01 at 0299, para. 32 (Fr).

⁷⁴¹ **P-0547:** CAR-OTP-2018-0389-R01 at 0399, paras. 71-72 (Fr); **P-0547:** CAR-OTP-2078-0292-R01 at 0303, para. 50 (Fr).

⁷⁴² **P-0547:** CAR-OTP-2018-0389-R01 at 0399, paras. 67-68 (Fr).

⁷⁴³ **P-0547:** CAR-OTP-2018-0389-R01 at 0406, para. 118 (Fr); **P-0547:** CAR-OTP-2078-0292-R01 at 0299, para. 33 (Fr).

⁷⁴⁴ **P-0547:** CAR-OTP-2018-0389-R01 at 0398, para. 66 (Fr).

⁷⁴⁵ **P-0547:** CAR-OTP-2018-0389-R01 at 0398, 0401, 0404, para. 61-62, 85, 97 (Fr); **P-2241:** CAR-OTP-2092-3851-R01 at 3862, para. 58 (Eng).

⁷⁴⁶ **P-2280:** CAR-OTP-2116-0725-R01 at 0727.

⁷⁴⁷ **P-2280:** CAR-OTP-2116-0725-R01 at 0729.

236. P-2280 remembers taking photographs of a man who was presented to him [REDACTED]. This man had wounds on his arms and back and had been tortured by the Seleka. The man also had scars across his elbow joints, which P-2280 was told had also been caused by the Seleka.⁷⁴⁸ The photos taken by P-2280 were provided by [REDACTED].⁷⁴⁹

p) P-2179

237. The material facts underlying the arbitrary arrest and detention of P-2179 are based on his personal account.⁷⁵⁰ P-2179 is a [REDACTED].⁷⁵¹ The evidence demonstrates that P-2179 was transferred to SAID's deputy TAHIR at the OCRB after his arrest [REDACTED] and was detained in the underground cell, together [REDACTED] and had been tied *arbatachar* during their first week at the OCRB. P-2179 was also subjected to the *arbatachar* method. One morning he was interrogated by ADAM and then managed to flee.
238. P-2179 states that he was arrested [REDACTED]. After discovering that [REDACTED] and P-2179 were [REDACTED], the Seleka started beating them with military belts. P-2179's left index finger was dislocated while he was trying to protect his face from the beating.⁷⁵² They were taken by [REDACTED] to Camp de Roux. They were tied *arbatachar*. P-2179 was also struck with a machete.⁷⁵³
239. P-2179 was then taken to the OCRB. [REDACTED] spoke to a Seleka named "TAAR". P-2179 was registered by a police officer. Then, he was made to enter the underground cell through a small side window. In the cell, there were already five other detainees who said they had been arrested [REDACTED]. They stated that they had been tied *arbatachar* as well.⁷⁵⁴
240. P-2179 was in the underground cell for four days. P-2179 was allowed by a Seleka he knew from the military to exit the underground cell each morning to use the toilet.

⁷⁴⁸ P-2280: CAR-OTP-2116-0725-R01 at 0729, 0732.

⁷⁴⁹ See fn. 712.

⁷⁵⁰ P-2179: CAR-OTP-2088-2250-R01 (Eng). See also photos shown to the witness of the underground cell: CAR-OTP-2033-7729; CAR-OTP-2033-7732; CAR-OTP-2033-7737, CAR-OTP-2033-7733, CAR-OTP-2033-7739, CAR-OTP-2033-7746, and CAR-OTP-2033-7754.

⁷⁵¹ P-2179: CAR-OTP-2088-2250-R01 at 2252, para. 12 (Eng).

⁷⁵² P-2179: CAR-OTP-2088-2250-R01 at 2254-2257, paras. 19-36 (Eng), see photographs CAR-OTP-2088-2290 and CAR-OTP-2088-2291.

⁷⁵³ P-2179: CAR-OTP-2088-2250-R01 at 2257-2266, paras. 37-81 (Eng).

⁷⁵⁴ P-2179: CAR-OTP-2088-2250-R01 at 2266-2268, paras. 82-90 (Eng).

He also had the opportunity to visit the courtyard twice when “TAAR” was not there. On those occasions he received food from the Seleka he knew. The other five were not allowed to leave the basement but they were given a portion of rice and a bottle with sugar each day. Once when he was outside he was told to return immediately to the basement as the Prosecutor had arrived and he would count the detainees in the above ground cells.⁷⁵⁵

241. One morning he was interrogated by [REDACTED].⁷⁵⁶ He was then informed by the Seleka he knew that it was planned to move P-2179 to an unknown location next to the Air France building. This Seleka then helped P-2179 escape in the early hours of the morning from the OCRB.⁷⁵⁷
242. The witness provides several photographs documenting injuries he sustained during his detention.⁷⁵⁸ P-2179 was also shown photographs in which he identified a Seleka nicknamed “OCRB” who was allegedly an expert in the *arbatachar* method.⁷⁵⁹ P-2179 was also shown pictures of the OCRB and was able to recognise the basement where he was detained.⁷⁶⁰ P-2179 identifies the Seleka he calls “TAAR” in two photos which were taken [REDACTED].⁷⁶¹ The man in this photo is standing next to **SAID** and has been identified by other witnesses as his deputy TAHIR.⁷⁶²

⁷⁵⁵ **P-2179**: CAR-OTP-2088-2250-R01 at 2268-2269, paras. 90-92, 96 (Eng).

⁷⁵⁶ **P-2179**: CAR-OTP-2088-2250-R01 at 2270-2271, paras. 102-104 (Eng).

⁷⁵⁷ **P-2179**: CAR-OTP-2088-2250-R01 at 2272, paras. 106-109 (Eng).

⁷⁵⁸ CAR-OTP-2088-2290; CAR-OTP-2088-2291; CAR-OTP-2088-2292; CAR-OTP-2088-2293; CAR-OTP-2088-2294; CAR-OTP-2088-2295; CAR-OTP-2088-2296; CAR-OTP-2088-2297.

⁷⁵⁹ **P-2179**: CAR-OTP-2088-2250-R01 at 2275, CAR-OTP-2059-0549 at (photo with code 33) and Annex 8: CAR-OTP-2088-2303).

⁷⁶⁰ **P-2179**: CAR-OTP-2088-2250-R01 at 2278-2279 (CAR-OTP-2033-7729, CAR-OTP-2033-7732, CAR-OTP-2033-7737, CAR-OTP-2033-7739, CAR-OTP-2033-7746, CAR-OTP-2033-7177).

⁷⁶¹ **P-2179**: CAR-OTP-2088-2250-R01 at 2279 and 2282 (CAR-OTP-2069-3227 and CAR-OTP-2069-3228 and Annex 12: CAR-OTP-2088-2307).

⁷⁶² **P-2105**: CAR-OTP-2081-0037-R01 at 0055, paras. 105-106 (CAR-OTP-2069-3227 and CAR-OTP-2069-3228) (Fr). *See supra*, para. 114.

q) P-1432 and P-1762⁷⁶³

243. The material facts of the arbitrary arrest and detention of P-1432 and P-1762 are based on the accounts of the witnesses themselves,⁷⁶⁴ as well as corroborating witness and documentary evidence.⁷⁶⁵
244. According to Witness P-1432, [REDACTED], he was arrested one morning [REDACTED] in mid-August by the Seleka and brought to the camp of the Seleka base at the *Sapeurs Pompiers* in Bangui.⁷⁶⁶
245. P-1432 states that Witness P-1762, [REDACTED], was put into the same container that he was being detained in after four days of P-1432's detention.⁷⁶⁷ While P-1762 does not provide any date estimation of his own, P-1762 states that upon his arrival at the base of the *Sapeurs Pompiers*, he was put into a container along with 30 other prisoners including [REDACTED]."⁷⁶⁸ [REDACTED] P-1432.⁷⁶⁹ From this moment onwards, both witnesses were together throughout the rest of their detention.
246. According to P-1762's account,⁷⁷⁰ he was detained at the *Sapeurs Pompiers* site [REDACTED] and was transferred on the fourth day to the OCRB together with P-1432.⁷⁷¹ This transfer date is corroborated by the '*procès verbal de notification*'⁷⁷² provided by P-1432, which is dated [REDACTED] August 2013. The Prosecution submits that this day is the actual transfer date of both witnesses to the OCRB.⁷⁷³
247. Both witnesses state that they were subsequently detained in the underground cell at the OCRB.⁷⁷⁴ That their detention occurred in the second half of August is also

⁷⁶³ This incident is part of the Prosecution's pending request to amend the charges.

⁷⁶⁴ **P-1432:** CAR-OTP-2050-0172-R01 at 0177-0180, paras. 39-60 (Fr); CAR-OTP-2050-0183; CAR-OTP-2050-0184; CAR-OTP-2050-0185; CAR-OTP-2050-0186; **P-1762:** CAR-OTP-2130-2147-R01 at 2157-2165, 47-88 (Fr); CAR-OTP-2073-0732; CAR-OTP-2073-0733; CAR-OTP-2073-0736.

⁷⁶⁵ **P-1432 Annex 6:** CAR-OTP-2050-0187-R01; P-1432 **Annex 7:** CAR-OTP-2050-0188; P-1432 **Annex 8:** CAR-OTP-2050-0189.

⁷⁶⁶ **P-1432:** CAR-OTP-2050-0172-R01 at 0174 - 0177, paras. 17-38.

⁷⁶⁷ **P-1432:** CAR-OTP-2050-0172-R01 at 0177, paras. 30-35.

⁷⁶⁸ **P-1762:** CAR-OTP-2130-2147-R01 at 2156, para. 42. The Prosecution states that this person is Witness P-1432.

⁷⁶⁹ The correct spelling of P-1432 is at the front page of his statement CAR-OTP-2050-0172-R01.

⁷⁷⁰ **P-1762:** CAR-OTP-2130-2147-R01 at 2157-2158, paras. 47; 52-55.

⁷⁷¹ **P-1432:** CAR-OTP-2050-0172-R01 at 0177, paras. 38-39.

⁷⁷² *Procès-verbal de notification:* CAR-OTP-2050-0189.

⁷⁷³ Note that P-1432's screening indicated that once the Seleka left, the police drafted the necessary documentation for the detainees and submitted it to the tribunal; see CAR-OTP-2045-0996-R01 at 1000.

⁷⁷⁴ **P-1432:** CAR-OTP-2050-0172-R01 at 0178, para. 41; P-1762: CAR-OTP-2130-2147-R01 at 2159, para. 58.

corroborated by information they provide about co-detainees.⁷⁷⁵ Witness P-1432 stated that while in the underground cell, he saw a paralysed man who worked at the [REDACTED].⁷⁷⁶ Witness P-1762 stated that he saw a civilian who said that he was arrested in Boy Rabe [REDACTED], tied using the *arbatachar*-method, and that his hands were paralysed.⁷⁷⁷ The detainee who matches this description is P-0547. Witness P-0547 stated that he was detained in the underground cell at the end of August⁷⁷⁸ and that there was a [REDACTED] in the underground cell with him who had been taken to the *Camp des Sapeurs Pompiers* before he was taken to the OCRB.⁷⁷⁹

248. [REDACTED].⁷⁸⁰ [REDACTED].⁷⁸¹ [REDACTED].⁷⁸²

249. [REDACTED].⁷⁸³ [REDACTED].⁷⁸⁴

250. Witness P-1967, [REDACTED], provided [REDACTED] in relation to the departure of the Seleka from the OCRB.⁷⁸⁵ He stated that this meeting was on 30 August 2013 when President DJOTODIA and Minister BINOUA were addressing the Seleka and asked them to leave the OCRB premises.⁷⁸⁶ [REDACTED].⁷⁸⁷ [REDACTED].⁷⁸⁸

251. P-1432 and P-1752 state that they were detained in the underground cell with three men [REDACTED].⁷⁸⁹

⁷⁷⁵ **P-0547:** CAR-OTP-2018-0389-R01 at 0399, para. 73; **P-2478:** CAR-OTP-2110-0745-R02 at 0758-0759, paras. 53-56.

⁷⁷⁶ **P-1432:** CAR-OTP-2050-0172-R01 at 0178, para. 45.

⁷⁷⁷ **P-1762:** CAR-OTP-2130-2147-R01 at 2159-2160, paras. 62-63.

⁷⁷⁸ **P-0547:** CAR-OTP-2018-0389-R01 at 0398, paras. 62-63.

⁷⁷⁹ The Prosecution believes that this person is Witness P-1762. **P-0547:** CAR-OTP-2018-0389-R01 at 0399, para. 73.

⁷⁸⁰ **P-2478:** CAR-OTP-2110-0745-R02 at 0758-0759, paras. 53-56.

⁷⁸¹ **P-2478:** CAR-OTP-2110-0745-R02 at 0758-0759, para. 56.

⁷⁸² **Investigation report:** CAR-OTP-2135-2325.

⁷⁸³ **P-1762:** CAR-OTP-2130-2147-R01 at -2162-2163, paras. 76; 80; **P-1432:** CAR-OTP-2050-0172-R01 at 0179, paras. 54-55.

⁷⁸⁴ **P-1967:** CAR-OTP-2118-6365-R01 at 6457 in relation to P8301174 to P8301201; *see also* **P-0787:** CAR-OTP-2130-0893-R01 at 0917, para. 101; **P-0338:** CAR-OTP-2130-5761-R01 at 5788-5789, paras. 150-156.

⁷⁸⁵ **Photos:** CAR-OTP-2069-3221 to CAR-OTP-2069-3246.

⁷⁸⁶ **P-1967:** CAR-OTP-2118-6365-R01 at 6457 in relation to P8301174 to P8301201.

⁷⁸⁷ **P-1432:** CAR-OTP-2050-0172-R01 at 0180, paras. 58-59; **P-1762:** CAR-OTP-2130-2147-R01 at 2164, para. 87.

⁷⁸⁸ *Mandat de dépôt:* CAR-OTP-2050-0187-R01; *Ordonnance de mise en liberté sous contrôle judiciaire:* CAR-OTP-2050-0188; CAR-OTP-2073-0736. Note that the latter certificate relates to P-1432. Witness P-1762 at Investigator's Report CAR-OTP-2130-7969-R01 explains that he mistakenly took P-1432 release order because they were taken together to the Tribunal.

⁷⁸⁹ **P-1762:** CAR-OTP-2130-2147-R01 at 2156, para. 44 (Fr).

r) [REDACTED]⁷⁹⁰

252. The material facts of the arbitrary arrests and detention of P-2400, P-2241 and P-2239 are based on the accounts of the victims themselves as well as witness P-2337.⁷⁹¹

253. The evidence demonstrates that P-2400 and P-2241 were arrested [REDACTED].⁷⁹² P-2400 was perceived to be supportive of BOZIZE on account of his family name.⁷⁹³ They were taken to Camp de Roux by Seleka, where P-2400 was severely mistreated.⁷⁹⁴ P-2239 – [REDACTED] – heard of the arrest [REDACTED]. The Seleka then arrested P-2239 along with a friend [REDACTED]. P-2400, P-2241, P-2239 and [REDACTED] were then transferred to the OCRB.⁷⁹⁵ Upon his arrival, P-2400 was beaten several times by the Seleka and then **SAID** ordered his detention in the underground cell. Eventually, after his family paid ransom money, P-2400 was brought to an above ground cell. There he saw Seleka elements beating a detainee severely, on **SAID's** order.⁷⁹⁶ P-2339 and [REDACTED] were detained in an above ground cell. P-2239 was interrogated during which he denied the Seleka's accusations that he was planning a coup and hiding weapons. Around this time the Seleka also tied an older man who was detained in the underground cell using the *arbatachar* method and beat him severely. P-2239 was released after 12 days of detention when the Seleka vacated the OCRB. About nine days after P-2241's arrival at the OCRB, **SAID** drove P-2241 and [REDACTED] male detainees to the Prosecutor's office.⁷⁹⁷ The [REDACTED] were released but not P-2241. **SAID** told

⁷⁹⁰ Confirmation Decision (Operative Part), para. 29 q).

⁷⁹¹ **P-2400**: CAR-OTP-2130-4712-R01 at 4716-4726, paras. 16-63 (Fr); **P-2240**: CAR-OTP-2110-0780-R01 at 0788-0789, para. 29 (Fr); **P-2400 Photos**: CAR-OTP-2104-0440; CAR-OTP-2104-0441; CAR-OTP-2104-0442; CAR-OTP-2105-1038; CAR-OTP-2105-1039; CAR-OTP-2105-1040. **P-2239**: CAR-OTP-2130-4729-R01 at 4734 - 4749, para. 21-83 (Fr); **P-2241**: CAR-OTP-2127-9409-R01 at 9412-9430, paras. 15-97; **P-2337**: CAR-OTP-2130-4699-R01 at 4703-4708, paras. 17-40 (Fr).

⁷⁹² **P-2400**: CAR-OTP-2104-0424-R01 at 0427-0429, paras. 16-26 (Eng); **P-2241**: CAR-OTP-2127-9409-R01 at 9412-9430, paras. 15-97.

⁷⁹³ **P-2400**: CAR-OTP-2104-0424-R01 at 0429, para. 28 (Eng).

⁷⁹⁴ **P-2400**: CAR-OTP-2104-0424-R01 at 0430-431, paras. 30-36 (Eng).

⁷⁹⁵ **P-2400**: CAR-OTP-2104-0424-R01 at 0431-0436, paras. 37-59 (Eng); **P-2239**: CAR-OTP-2130-4729-R01 at 4734 - 4749, para. 21-83 (Fr).

⁷⁹⁶ **P-2400**: CAR-OTP-2104-0424-R01 at 0433, para. 42 (Eng).

⁷⁹⁷ **P-2241**, CAR-OTP-2092-3851-R01 at 3868, para. 83.

[REDACTED] that DJOTODIA would be the one to decide [REDACTED].⁷⁹⁸ **SAID** took P-2241 back to the OCRB.⁷⁹⁹ [REDACTED].⁸⁰⁰

254. P-2337 corroborates the arrest and detention of P-2400 [REDACTED].⁸⁰¹

255. The timing of the detention of this group is based primarily on the information provided by P-2339 and P-2337, whilst P-2400 and P-2241 could only make a general estimate. Both P-2339 and P-2337 place the time of arrest shortly after [REDACTED].⁸⁰²

s) Other underground cell detentions⁸⁰³

256. The material facts regarding the detention of other men in the underground cell are based on the accounts of P-2105, P-2240 and P-2563.⁸⁰⁴ The evidence shows that at an unknown time when **SAID** was in control of the OCRB, he detained various other men in the underground cell. One man was [REDACTED], a man accused of supporting the Anti-Balaka. The OCRB-Seleka tied him up using the *arbatachar* method and struck and beat him on several occasions.⁸⁰⁵ Another detainee named [REDACTED].⁸⁰⁶ Another man was [REDACTED].⁸⁰⁷ Another man named [REDACTED].⁸⁰⁸

3. Legal Classification of the Material Facts

257. The material facts, supported by the evidence, set out above constitute the factual basis for COUNTS 1 to 6 and also form the underlying conduct of the crime of persecution (Count 7).

⁷⁹⁸ **P-2241**, CAR-OTP-2092-3851-R01 at 3869, paras. 90-91.

⁷⁹⁹ **P-2241**, CAR-OTP-2092-3851-R01 at 3869, para. 93.

⁸⁰⁰ **P-2241**, CAR-OTP-2092-3851-R01 at 3870, para. 94-95.

⁸⁰¹ **P-2337**, CAR-OTP-2130-4699-R01 at 4706-4707, paras. 32, 37 (Fr).

⁸⁰² **P-2239**: CAR-OTP-2104-0918-R01 at 0922, para. 21 (Eng); **P-2337**: CAR-OTP-2130-4699-R01 at 4703, para. 19 (Fr). *See supra*, para. 41.

⁸⁰³ Confirmation Decision (Operative Part), para. 29 r).

⁸⁰⁴ **P-2105**: CAR-OTP-2078-0003-R01 at 0018-0019, paras. 89, 96 (Fr); **P-2105** (supplementary statement): CAR-OTP-2081-0037-R01 at 0043, para. 34-35 (Fr); **P-2240**: CAR-OTP-2110-0780-R01 at 0788-0789, para. 29 (Fr); **P-2563**: CAR-OTP-2130-4911-R01 at 4924-427, Ins. 412-515; **P-2563**: CAR-OTP-2130-5981-R01 at 5988-5993, Ins. 180-348 (Fr).

⁸⁰⁵ **P-2105**: CAR-OTP-2078-0003-R01 at 0018-0019, paras. 89, 96 (Fr).

⁸⁰⁶ **P-2240**: CAR-OTP-2110-0780-R01 at 0788-0789, para. 29 (Fr).

⁸⁰⁷ **P-2563**: CAR-OTP-2130-4911-R01 at 4926, Ins. 459-481 (Fr); CAR-OTP-2130-5981-R01 at 5990-5991, Ins. 264-283.

⁸⁰⁸ **P-2563**: CAR-OTP-2130-5981-R01 at 5988, Ins. 180-197 (Fr).

258. The material facts fulfil the elements of the crimes of imprisonment as a crime against humanity (article 7(1)(e)), the crime of torture as a crime against humanity (article 7(1)(f)) and as a war crime (article 8(2)(c)(i)-4)), the crime of cruel treatment as a war crime (article 8(2)(c)(i)-(3)), the crime of outrages upon personal dignity as a war crime (article 8(2)(c)(ii)), and the crime of persecution as a crime against humanity (article 7(1)(h)).⁸⁰⁹

a) COUNT 1: Crime of imprisonment or other severe deprivation of physical liberty (article 7(1)(e))

aa. Legal Elements

259. The evidence shows that **SAID** committed the crime of imprisonment pursuant to article 7(1)(e) (Count 1).
260. The specific elements of the crime of imprisonment under article 7(1)(e) of the Statute are as follows: (i) the perpetrator imprisoned one or more persons or otherwise severely deprived one or more persons of physical liberty; (ii) the gravity of the conduct was such that it was in violation of fundamental rules of international law; (iii) the perpetrator was aware of the factual circumstances that established the gravity of the conduct.⁸¹⁰
261. “Imprisonment” includes the captivity of a person in an enclosed environment such as a prison. “Other severe deprivation of physical liberty” denotes any other restriction of the person’s movements to a specific area such a camp or a house.⁸¹¹ Importantly, to amount to a crime against humanity under the Statute, the deprivation of physical liberty must be in violation of fundamental rules of international law, for instance where there is no legal basis to detain a person, or when the person is denied applicable procedural or other rights.⁸¹²
262. Even if arrests and detentions are initially carried out on lawful grounds, such detentions may turn unlawful if detainees are deprived of their fundamental rights—

⁸⁰⁹ Confirmation Decision (Operative Part), Section F, pages 61-62.

⁸¹⁰ See *Situation in the Republic of Burundi*, Public Redacted Version of “Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Burundi,” ICC-01/17-9-Red, 9 November 2017 (“*Burundi* Article 15 Decision”), para. 68.

⁸¹¹ *Id.*

⁸¹² *Id.*

for instance in case of *incommunicado* detention, physical abuse, denial of prompt medical treatment or lack of timely and independent review of the lawfulness of the detention. It is not required for the imprisonment or the deprivation of physical liberty to be prolonged in time.⁸¹³

263. In armed conflict, international humanitarian law (“IHL”) may be *lex specialis* in determining the deprivations of liberty that may be permitted.⁸¹⁴ It remains controversial whether security internment is directly permitted by IHL in non-international armed conflicts.⁸¹⁵ Yet even if this is so, and consistent with common article 3 of the Geneva Conventions and articles 4(1) and 5 of Additional Protocol II, internees have an absolute — indeed, fundamental⁸¹⁶ — entitlement to humane treatment, including in the conditions of their captivity.⁸¹⁷ Further even in armed

⁸¹³ *Id.*

⁸¹⁴ See e.g. ECtHR, *Hassan v. the United Kingdom*, Application No. 29750/09, Judgment [Grand Chamber], 16 September 2014, paras. 103-105. See also K. Dörmann, ‘Detention in non-international armed conflicts,’ [2012] Vol. 88 *International Law Studies* 347 (“Dörmann”), pp. 348-349.

⁸¹⁵ Compare e.g. *Prosecutor v. Taçi et al.*, Decision on Motions Challenging the Jurisdiction of the Specialist Chambers, Case No. KSC-BC-2020-06, 22 July 2021 (“*Taçi* Jurisdiction Decision”), para. 153 (rejecting the view that, in 1999, IHL provided any legal basis for deprivation of liberty in non-international armed conflict); UK Supreme Court, *Al Waheed v. Ministry of Defence / Serdar Mohammed v. Ministry of Defence* [2017] UKSC 2 (“*Mohammed v. Ministry of Defence*”), paras. 235 (ii), 258, 274-275 (Lord Reed and Lord Kerr, dissenting, concluding that as late as 2010 there was no IHL right to intern in non-international armed conflict, notwithstanding “substantial arguments” each way and “much to be said” for the view that there should be such a right); with ICRC, *Updated Commentary on the Third Geneva Convention* (Geneva/Cambridge: ICRC/CUP, 2020) (“ICRC, *Updated Commentary on Third Geneva Convention*”), mns. 758, 764-765; ICRC, *Internment in Armed Conflict: Basic Rules and Challenges*, Opinion Paper, November 2014 (“ICRC, *Internment* Opinion Paper”), pp. 6-8 (expressing the ICRC’s institutional view that “both customary and treaty IHL contain an inherent power to intern and may in this respect be said to provide a legal basis for internment in [non-international armed conflict]”, but further suggesting that exercise of such a power would still require “additional authority related to the grounds for internment and the process to be followed”, in order to satisfy the “principle of legality”); D. Murray, ‘Non-State armed groups, detention authority in non-international armed conflict, and the coherence of international law: searching for a way forward,’ [2017] 30(2) *Leiden Journal of International Law* 435, pp. 448, 455-456 (concluding that treaty IHL must be interpreted to establish implicitly a legal basis for detention in non-international armed conflict). See also Dörmann, pp. 353-354; *Mohammed v. Ministry of Defence*, paras. 14-16, 44, 113, 147-148, 224, 231 (the 7-strong majority of the Court declining to rule on the existence or not of any right to intern in non-international armed conflict, based in particular on the view of Lord Sumption and Lady Hale that “if there is nevertheless an insufficient consensus among states upon the legal right of participants in armed conflicts to detain under customary international law, it is not because of differences about the existence of a right of detention in principle”, but rather “differences among states about the *appropriate limits* of the right of detention, the conditions of its exercise and the extent to which special provision should be made for non-state actors”, emphasis added). See further Sivakumaran, p. 303 (noting that, to any extent required, “legislation of the non-state armed group may suffice for the purposes of non-state armed group detention”). For the well-established position in international armed conflict, see e.g. Third Geneva Convention (internment of prisoners of war); Fourth Geneva Convention (internment of civilians).

⁸¹⁶ See Dörmann, pp. 349-352.

⁸¹⁷ See further *Taçi* Jurisdiction Decision, paras. 153-155 (reasoning that persons deprived of their liberty in non-international armed conflict are not only entitled to humane treatment in the sense of the express prohibitions contained in common article 3, but also that this extends, “where practically feasible, [to] basic procedural guarantees” including “(i) the obligation to inform a person who is arrested of the reasons for arrest; (ii) the obligation to bring a person arrested [...] promptly before a judge or other competent authority; and (iii) the

conflict, internment must not be arbitrary. Rather, as the ICRC has stated, “imperative reasons of security” must remain “the minimum legal standard” for the internment of civilians (not including prisoners of war). Internment of civilians may not be resorted to only for the purpose of interrogation or intelligence gathering, as a punishment, or as a general deterrent.⁸¹⁸ An internee has the right to challenge, with the least possible delay, the lawfulness of his or her detention, and is entitled to review by an independent and impartial body.⁸¹⁹

bb. Material Facts

i. The victims were imprisoned at the OCRB

264. Before the Seleka took power in Bangui, the OCRB was an official pre-trial detention centre. The OCRB thereafter continued to be used to hold persons suspected of ordinary crimes,⁸²⁰ including Seleka elements.⁸²¹ But not exclusively so.
265. Formally, the OCRB was headed by the judicial police and cases were overseen by career police officers/*gendarmes*.⁸²² The Prosecutor General in Bangui also had access to the OCRB.⁸²³ Yet in practice Seleka elements sidelined the career police officers/*gendarmes* and carried out arrests even though they had no formal authority under CAR law to do so.⁸²⁴ The detainees were held in cells rarely accessible to career police officers, which allowed the OCRB Seleka to evade standard procedures.⁸²⁵

obligation to provide a person deprived of liberty with an opportunity to challenge the lawfulness of detention”). See also e.g. Fourth Geneva Convention, arts. 80-84, 93-94, 97-101, 127.

⁸¹⁸ ICRC, *Internment Opinion Paper*, pp. 8-9. See also ICRC, *Updated Commentary on Third Geneva Convention*, mn. 759; Dörmann, pp. 356-357.

⁸¹⁹ ICRC, *Internment Opinion Paper*, p. 9. See also ICRC, *Updated Commentary on Third Geneva Convention*, mns. 760-762; ICRC, *Procedural Principles and Safeguards for Internment/Administrative Detention in Armed Conflict and Other Situations of Violence*, published in ICRC, *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*, Report to the 30th International Conference of the Red Cross and Red Crescent, Annex 1, 2007; J. Pejic, ‘Procedural Principles and Safeguards for Internment/Administrative Detention in Armed Conflict and Other Situations of Violence’ [2005], Vol. 87 *International Review of the Red Cross*, p. 376; Dörmann, pp. 357-358. Compare e.g. Fourth Geneva Convention, arts. 42-43, 68, 78-79, 132 (applicable in international armed conflict).

⁸²⁰ **P-2563**: CAR-OTP-2118-2856-R01 at 2867, lns. 354-381; CAR-OTP-2130-4890-R01 at 4902-4903, lns. 375-404 (Fr); CAR-OTP-2118-2876-R01 at 2881, lns. 143-149; CAR-OTP-2130-4911-R01 at 4917, lns. 155-164 (Fr).

⁸²¹ **P-2563**: CAR-OTP-2118-2876-R01 at 2881, lns. 152-164; CAR-OTP-2130-4911-R01 at 4917, lns. 167-169 (Fr).

⁸²² **P-2478**: CAR-OTP-2110-0745-R02 at 0755-0758, paras. 42-52.

⁸²³ **P-2478**: CAR-OTP-2110-0745-R02 at 0759, para. 60.

⁸²⁴ See *supra*, paras. 116-117.

⁸²⁵ **P-0547**: CAR-OTP-2025-0566-R01 at 0575-0577, paras. 55, 63, 75 (Eng.); **P-0481**: CAR-OTP-2018-0530-R01 at 0539, paras. 58-59; **P-1289**: CAR-OTP-2053-0359-R01 at 0369, paras. 58-59. See also **P-0787**: CAR-OTP-2036-0410-R01 at 0422-0423, paras. 57-59; **P-1737**: CAR-OTP-2055-0137-R01 at 0143-0144, para. 38; **P-**

266. The persons described above in section III.B.2 as held in the OCRB compound by the Seleka were deprived of their liberty, amounting to imprisonment. The OCRB compound was not publicly accessible and was surrounded by high walls.⁸²⁶ Once brought to the OCRB, it was not possible for a person to leave without permission of **SAID** and the OCRB-Seleka.
267. The OCRB had seven cells in total⁸²⁷ for the physical confinement of detainees. In addition, the Seleka used an underground cell for the detention of some victims.⁸²⁸
268. P-0338 states that when **SAID** and the Seleka took control of the OCRB, from at least 12 April 2013 onwards, the number of prisoners increased significantly.⁸²⁹ Detained persons were predominantly from the Gbaya,⁸³⁰ Banda⁸³¹ and Mandja⁸³² tribes, were Christian⁸³³, or thought to be affiliated or supportive of BOZIZE, or [REDACTED] or [REDACTED], and they were predominantly male.⁸³⁴ The conditions in which they were held were inhumane.

1762: CAR-OTP-2073-0568-R01 at 0578, paras. 60-61; **P-0338:** CAR-OTP-2068-0244-R01 at 0263, 0265-0266, paras. 111, 120, 128; **P-2105:** CAR-OTP-2083-0003-R01 at 0006, paras. 11-12 (Eng.).

⁸²⁶ **FSS Photos:** CAR-OTP-2062-0743-R01 at 0755, 0757, 0758, 0766, 0767 and 0768.

⁸²⁷ **FSS Photos:** CAR-OTP-2062-0743-R01 (Fr); Cell G1 at 0853,0854; CAR-OTP-2033-6871, CAR-OTP-2033-7000, CAR-OTP-2033-7001, CAR-OTP-2033-7003, CAR-OTP-2033-7009, CAR-OTP-2033-7013; Cell G2 at 0855,0856; CAR-OTP-2033-6871, CAR-OTP-2033-6944, CAR-OTP-2033-6874, CAR-OTP-2033-6880, CAR-OTP-2033-6910, CAR-OTP-2033-6923; Cell G3 at 0857,0858; CAR-OTP-2033-6871, CAR-OTP-2033-6906, CAR-OTP-2033-6907, CAR-OTP-2033-6908, CAR-OTP-2033-6910, CAR-OTP-2033-6923; Cell G4 at 0859,0860; CAR-OTP-2033-6871, CAR-OTP-2033-6872, CAR-OTP-2033-6874, CAR-OTP-2033-6880, CAR-OTP-2033-6883, CAR-OTP-2033-6893; Cell G5 at 0864,0865; CAR-OTP-2033-7064, CAR-OTP-2033-7065, CAR-OTP-2033-7068, CAR-OTP-2033-7072, CAR-OTP-2033-7078, CAR-OTP-2033-7086; Cell G6 at 0866,0867; CAR-OTP-2033-7064, CAR-OTP-2033-7098, CAR-OTP-2033-7097, CAR-OTP-2033-7105, CAR-OTP-2033-7119, CAR-OTP-2033-7112; Cell G7 at 0868,0869; CAR-OTP-2033-7064, CAR-OTP-2033-7127, CAR-OTP-2033-7130, CAR-OTP-2033-7133, CAR-OTP-2033-7137, CAR-OTP-2033-7144. See also **FSS videos:** CAR-OTP-2033-7868; CAR-OTP-2033-7869; CAR-OTP-2033-7870; CAR-OTP-2033-7871; CAR-OTP-2033-7872; CAR-OTP-2033-7873; CAR-OTP-2033-7874; CAR-OTP-2033-7875; CAR-OTP-2033-7876. **Sketches of the OCRB:** **P-0787:** CAR-OTP-2036-0440; **P-1737:** CAR-OTP-2055-0157; **P-2563** at CAR-OTP-2114-0319.

⁸²⁸ See *infra*, paras. 207 - 256; see also *imagery in FSS Report:* CAR-OTP-2062-0743-R01 at 0846.

⁸²⁹ **P-0338:** CAR-OTP-2130-5761-R01 at 5782, paras. 113-114 (Fr).

⁸³⁰ **P-0622:** CAR-OTP-2022-0121-R01 at 0121 (Fr); **P-0481:** CAR-OTP-2104-1024-R01 at 1025 (Fr); **P-0547:** CAR-OTP-2018-0389-R01 at 0389 (Fr); **P-2400:** CAR-OTP-2130-4712-R01 at 4713 (Fr).

⁸³¹ **P-1289:** CAR-OTP-2127-7632-R01 at 7633 (Fr); **P-2263:** CAR-OTP-2130-6271-R01 at 6272 (Fr).

⁸³² **P-2179:** CAR-OTP-2130-2342-R01 at 2343 (Fr); **P-1180:** CAR-OTP-2127-7599-R01 at 7600 (Fr).

⁸³³ **P-1289:** CAR-OTP-2127-7632-R01 at 7633 (Fr); **P-0481:** CAR-OTP-2104-1024-R01 at 1025 (Fr); **P-1429:** CAR-OTP-2043-0317-R01 at 0317 (Fr); **P-0547:** CAR-OTP-2018-0389-R01 at 0389 (Fr); **P-2179:** CAR-OTP-2130-2342-R01 at 2343 (Fr); **P-2519:** CAR-OTP-2130-5310-R01 at 5311 (Fr); **P-2263:** CAR-OTP-2130-6271-R01 at 6272 (Fr).

⁸³⁴ **P-2179:** CAR-OTP-2130-2342-R01 at 2345, para. 12 (Fr); **P-1432:** CAR-OTP-2050-0172-R01 at 0174, para. 11 (Fr); **P-1762:** CAR-OTP-2130-2147-R01 at 2150, para. 11 (Fr).

(1) The imprisonment was in violation of fundamental rules of international law

269. As set out in the Charges, the persons arrested or detained by the Seleka were arrested or detained in violation of fundamental rules of international law. First, they were arrested or detained on an arbitrary basis and without prompt review by an independent and impartial authority. In particular, even if internment of civilians was permitted, there was no sufficient assessment of whether the detention of each person was required by imperative reasons of security, nor frequently any objective basis on which this could have been thought to be the case. Further, and significantly, none of the rights afforded to the detainees, even if considered as internees under IHL, were respected. In any event, the deprivation of individual liberty was arbitrarily exercised and without prompt review by a competent authority, thus making the arrests and detentions evidently unlawful. The gravity of conduct against the victims was such that it violated fundamental rules of international law.
270. Likewise, the arrests and detentions violated the law applicable in CAR at the relevant time — whether for preliminary detention in criminal proceedings or after sentencing.⁸³⁵ There was no state of emergency in place in CAR at the relevant time,⁸³⁶ nor did DJOTODIA enact any legislation modifying CAR law on this matter.

⁸³⁵ The CAR Code of Criminal Procedure (CAR CCP) applicable at the relevant time stipulates detainees rights in line with internationally recognised human rights. For instance, while under CAR law a preliminary detention (*garde à vue*) is foreseen, Article 48 of the CAR CCP stipulates: “When, for the needs of the investigation, the judicial police officer is required to detain the accused person, he must immediately notify the Public Prosecutor, even if this measure occurs on a non-working day. He must notify the family of the suspected person or one of his relatives. In addition, **he must inform the person in custody of his right to choose a lawyer and to benefit from the assistance of a doctor or other qualified person.** Mention of the obligations prescribed above will be made in the custody register and the investigation report. **The presence of a lawyer with the detained person in custody is by right if the latter requests it.**” See CAR-OTP-2001-3680 at 3688 (emphasis added) Under the CAR CCP, in correctional matters, the detention must be motivated according to the elements of the case. The detention order is notified to the accused who receives a full copy against signature in the record of the proceedings. In criminal matters, detention is prescribed by warrant (Article 92 CAR CCP). In all cases, the investigating judge who plans to place the accused in provisional detention has to inform him that he is entitled to the assistance of counsel of his choice. He also advises him of his right to have time to prepare his defense (Article 93 CAR CCP). In correctional matters, provisional detention cannot exceed four months (Article 96). In criminal matters and in other cases, the accused cannot be kept in pre-trial detention for more than one year (Article 97 CAR CCP).

⁸³⁶ **Report of the International Commission of Inquiry:** CAR-OTP-2001-1075 at 1090, para. 57.

(2) Arrests were arbitrary

271. Armed Seleka elements stationed at the OCRB arrested the victims at night, often with considerable physical violence,⁸³⁷ and brought them to the detention centre.⁸³⁸ The Seleka travelled in pick-up trucks with a military appearance, bearing inscriptions such as “*s'en fout la mort*” (“doesn’t give a damn about death”) and “*danger de mort, lawa lawa*” (mixed French and Sango, meaning “mortal danger, no matter how far you go, we will find you”), or in vehicles with no licence plates and tinted windows.⁸³⁹
272. Some of the persons arrested and brought to the OCRB by the Seleka were told that they were thought to be planning a coup against the Seleka regime,⁸⁴⁰ or believed to have an affiliation with the BOZIZE government as a soldier⁸⁴¹ or as an intelligence agent.⁸⁴² Others were believed to have helped or supported the pro-BOZIZE forces,⁸⁴³ or were simply from the Gbaya ethnic group.⁸⁴⁴ Regardless of whether mere “suspicions” may be sufficient to justify any kind of lawful detention, the basis for such suspicions of specific conduct, supported by objective information, was not shared with the detainee(s) in question as required by their procedural rights.
273. The arrests and detentions of perceived BOZIZE supporters increased in mid-August 2013 after the disruption of the inauguration of DJOTODIA.⁸⁴⁵ [REDACTED],⁸⁴⁶ [REDACTED]
274. Other persons detained at the OCRB, including in the underground cell, had simply been transferred there from the unofficial detention centre run by the Sudanese

⁸³⁷ See **P-0338**: CAR-OTP-2068-0244-R01 at 0256, para. 71 (Eng).

⁸³⁸ **P-2105**: CAR-OTP-2078-0003-R01 at 0014, para. 64 (Fr).

⁸³⁹ **P-0622**: CAR-OTP-2022-0121-R01 at 0125-0126, paras. 29, 33, 36, 37 (Fr); **P-0481**: CAR-OTP-2104-1024-R01 at 1033, para. 47 (Fr); **P-1289**: CAR-OTP-2127-7632-R01 at 7646-7647, paras. 72, 76 (Fr); **P-0547**: CAR-OTP-2018-0389-R01 at 0394, para. 31 (Fr).

⁸⁴⁰ See *supra*, para. 172 (“Flyers incident”).

⁸⁴¹ See *supra*, paras. 164, 188, 243; see also **P-2519**: CAR-OTP-2130-5310-R01 at 5311, 5313, 5314, para. 14, paras. 17, 21 (Fr).

⁸⁴² **P-2105**: CAR-OTP-2081-0037-R01 at 0039, para. 13 (Fr); **P-1289**: CAR-OTP-2127-7632-R01 at 7640, para. 37 (Fr).

⁸⁴³ **P-0664**: CAR-OTP-2104-0540-R01 at 0545 para. 36.

⁸⁴⁴ **P-0547**: CAR-OTP-2018-0389-R01 at 0395, 0404, paras. 41, 104 (Fr); **P-0338**: CAR-OTP-2068-0244-R01 at 0265, paras. 124 (Eng); CAR-OTP-2130-5761-R01 at 5784, paras. 124 (Fr);

⁸⁴⁵ For the date of the inauguration, see **Photos**: CAR-OTP-2069-2887 through CAR-OTP-2069-3012 (DJOTODIA arriving at the Ledger Hotel to celebrate his inauguration, dated 18 August 2013); **Media article**: CAR-OTP-2050-0989; **P-1277**: CAR-OTP-2039-0419-R01 at 0423, para. 21 (Fr).

⁸⁴⁶ **P-0547**: CAR-OTP-2018-0389-R01 (Fr); **P-2179**: CAR-OTP-2130-2342-R01 (Fr); **P-1432**: CAR-OTP-2050-0172-R01 (Fr); **P-1762**: CAR-OTP-2130-2147-R01 (Fr).

Seleka General Moussa ASSIMEH at the *Camp des Sapeurs Pompiers* base, where people were being held in cattle lorry containers under dire conditions,⁸⁴⁷ or from *Camp de Roux*.⁸⁴⁸ Yet, no effort was made to ‘regularise’ the detention of these persons on their arrival at the OCRB; rather, they continued to be treated as if outside the protection of the law.

275. On many occasions, **SAID** and **TAHIR** and other Seleka at the OCRB asked detainees or their families for ransom money in exchange for their release.⁸⁴⁹ The willingness to contemplate detainees’ release in exchange for financial gain further shows the arbitrary basis of their initial arrest and subsequent detention.

(3) No review of the basis of detention, or procedural safeguards

276. Whatever the legal framework applicable to the detainees, they were entitled to a prompt, independent and impartial review of the lawfulness of their detention, together with other such guarantees necessary to make this review effective. This was never provided. While detainees were not always treated in the same way, they fell into two basic categories — those who were in some ways treated as if suspected or charged with a crime, but who were not adequately afforded their rights, and those who were apparently held entirely outside the framework of the law, without any indication that they were being treated as suspects or regarded as such.
277. Thus, some detainees were ostensibly charged with crimes after their initial detention, but the charges were manifestly ill-founded.⁸⁵⁰ For instance, following the Flyers incident detainees were charged with conduct protected by international human rights such as freedom of speech.⁸⁵¹ Other detainees were not afforded due process.⁸⁵²

⁸⁴⁷ **P-1432:** CAR-OTP-2050-0172-R01 at 0176-0177, paras. 26 - 38 (Fr); **P-1762:** CAR-OTP-2130-2147-R01 at 2154, paras. 31, 2155-2157, paras. 38-48.

⁸⁴⁸ **P-2179:** CAR-OTP-2130-2342-R01 at 2353-2358, paras. 47-73 (Fr).

⁸⁴⁹ **P-0481:** CAR-OTP-2104-1024-R01 at 1035, 1039, paras. 62, 84 (Fr); **P-1180:** CAR-OTP-2127-7599-R01 at 7623, paras. 158-159 (Fr). *See also* **P-2478:** CAR-OTP-2110-0745-R02 at 0750, para. 21 (Fr).

⁸⁵⁰ *See supra*, paras. 180, 200.

⁸⁵¹ **P-1180:** CAR-OTP-2127-7599-R01 at 7622, para. 153 (Fr); **P-2263:** CAR-OTP-2130-6271-R01 at 6278, para. 40 (First Statement) (Fr); CAR-OTP-2127-9708-R01 at 9723, para. 54-58 (Second Statement) (Fr).

⁸⁵² *See supra*, sections starting at paras. 137, 141, 148, 157, 188, 207, 221, 252.

278. The Flyers-detainees were brought before the *Tribunal de Grande Instance* after five weeks of detention,⁸⁵³ and charged with acts that compromised public security (“*actes de nature à compromettre la sécurité publique*”),⁸⁵⁴ yet they had not been sufficiently informed of the charge in accordance with their rights,⁸⁵⁵ nor did they benefit from the presumption of innocence, or the proper assistance of counsel for their defence.⁸⁵⁶ Other OCRB detainees were also deprived of representation by counsel.⁸⁵⁷
279. Involvement of the Prosecutor [REDACTED] was no guarantee of due process for the OCRB detainees. For example, witnesses were questioned by him without being informed of their rights or provided with legal counsel.⁸⁵⁸ Others were placed under arrest by him.⁸⁵⁹ The OCRB detainees were also threatened while being interrogated for information about their alleged allegiance to BOZIZE and his regime in the presence of [REDACTED].⁸⁶⁰ Others later detained in the underground cell were brought from *Camp de Roux* [REDACTED].⁸⁶¹ While some detainees were said to have been released by [REDACTED] order (at the request of their relatives),⁸⁶² insider witness P-2563 states that [REDACTED] rarely came to the OCRB.⁸⁶³
280. Many other detainees whose victimisation is summarised in paragraph 29 of the Charges were simply never informed of the reason for their arrest or formally charged. Detainees such as P-0547, P-1289, P-2519, P-1429, P-2179, P-1432, P-

⁸⁵³ **Media article:** CAR-OTP-2074-0336 at 0342; **P-1743:** CAR-OTP-2135-1819-R01 at 1831, para. 59 (Fr); **P-2263:** CAR-OTP-2127-9708-R01 at 9723, para. 54-57 (Fr); **P-2295:** CAR-OTP-2135-1852-R01 at 1858-1859, paras. 29-34 (Fr).

⁸⁵⁴ **P-2263:** CAR-OTP-2089-1242; **P-2295:** CAR-OTP-2091-3192; **Journal Officiel:** CAR-OTP-2001-3199 at 3243; **TGI Register:** CAR-OTP-2008-2415 at 2501, entry 542, 10 July 2013.

⁸⁵⁵ **P-1180:** CAR-OTP-2127-7599-R01 at 7605, para. 31 (Fr).

⁸⁵⁶ **P-2263:** CAR-OTP-2091-3074-R01 at 3085, -3087, paras. 47, 55-56; (Eng); **P-1180:** CAR-OTP-2127-7599-R01 at 7625, para. 171 (Fr).

⁸⁵⁷ **P-0547:** CAR-OTP-2018-0389-R01 at 0392-0415, paras. 21-196; **P-0481:** CAR-OTP-2104-1024-R01 at 1035, paras. 56-86; **P-2400:** CAR-OTP-2130-4712-R01 at 4723, 4726, paras. 47, 59 (Fr).

⁸⁵⁸ **P-0481:** CAR-OTP-2104-1024-R01 at 1043-1044, paras. 114-120 (Fr).

⁸⁵⁹ *See supra* para.197.

⁸⁶⁰ **P-0481:** CAR-OTP-2018-0530-R01 at 0547-0548 paras 114-120 (Eng).

⁸⁶¹ **P-2241:** CAR-OTP-2092-3851-R01 at 3859, paras. 41-43 (Eng); **P-2400:** CAR-OTP-2104-0424-R01 at 0431-0436, paras. 37-59 (Eng).

⁸⁶² **P-2519:** CAR-OTP-2130-5310-R01 at 5322-5323, para. 79, 5325, paras. 93, 95 (Fr).

⁸⁶³ **P-2563:** CAR-OTP-2118-2916-R01 at 2928, lns. 389-410 (Eng); CAR-OTP-2130-4955-R01 at 4968-4969, lns. 420-453 (Fr).

1762 and P-2400 did not have the lawfulness of their detention determined or reviewed by an independent authority at any point.⁸⁶⁴

281. While **SAID** was in charge of the OCB, at least 31 victims were detained in the underground cell⁸⁶⁵ in the OCB main building, located directly under the floor in **SAID**'s office.⁸⁶⁶
282. In fact, this space was not designed to function as a cell at all, and neither the career police officers nor the Prosecutor General were given access to, or informed about, the detainees held inside.⁸⁶⁷ These detainees were unable to see their relatives at any point,⁸⁶⁸ and some were tortured.⁸⁶⁹ Only when the Seleka vacated the OCB on 30 August 2013,⁸⁷⁰ were the detainees in the underground cell released or moved to the above ground cells.⁸⁷¹ Until that time, they were effectively removed from the protection of the law in all respects.

(4) Inhumane detention conditions

283. **SAID** and his subordinates, TAHIR, DAMBOUCHA and YAYA as well as other elements, kept the prisoners at the OCB in dire detention conditions, which caused them severe physical and mental pain. Prisoners were held in small, dark,

⁸⁶⁴ **P-0547**: CAR-OTP-2018-0389-R01 at 0395-0396, paras. 41-49 (Fr); **P-0481**: CAR-OTP-2104-1024-R01 at 1035, paras. 56-57 (Fr); **P-2400**: CAR-OTP-2130-4712-R01 at 4721-4724, paras. 37, 47, 52 (Fr).

⁸⁶⁵ At least 31 victims were detained in the underground cell at OCB. According to **P-0547**, the witness himself, [REDACTED], who is P-3503, [REDACTED], see CAR-OTP-2018-0389-R01 at 0398, 0399, 0402, 0406, paras. 63-66, 67, 73, 90, 119; CAR-OTP-2078-0292-R01 at 0299, 0300, 0303, paras. 32, 34, 50. According to **P-2179** he was detained with [REDACTED] other prisoners: CAR-OTP-2130-2342-R01 at 2361, paras. 85-89. See also **P-1432**: CAR-OTP-2050-0172-R01 at 0177-0180, paras. 39-60 (Fr); **P-1762**: CAR-OTP-2130-2147-R01 at 2156, 2159, paras. 44, 61; **P-2400**: CAR-OTP-2110-0780-R01 at 0788-0789, para. 29 (Fr); CAR-OTP-2130-4712-R01 at 4716, para. 16; **P-2241**: CAR-OTP-2092-3851-R01 at 3861, 3866, para. 53, 75; **P-2239**: CAR-OTP-2130-4729-R01 at 4742, para. 50; **P-2105** names [REDACTED] CAR-OTP-2078-0003-R01 at 0018, para. 89; **P-2563** names [REDACTED]: CAR-OTP-2118-9283-R01 at 9289, paras. 189-204, CAR-OTP-2118-2876-R01 at 2889, paras. 425-451; **P-0481** speaks about three prisoners detained in the basement, killed and disposed in the river: CAR-OTP-2104-1024-R01 at 1040, para. 94.

⁸⁶⁶ **P-0338**: CAR-OTP-2130-5761-R01 at 5783, 5785, paras. 119, 128 (Fr); **P-2478**: CAR-OTP-2110-0745-R02 at 0758, para. 55 (Fr).

⁸⁶⁷ **P-2478**: CAR-OTP-2110-0745-R02 at 0759, paras. 58-60.

⁸⁶⁸ **P-2240**: CAR-OTP-2110-0780-R01 at 0788-0789, para. 29; **P-0547**: CAR-OTP-2018-0389-R01 at 0399-0400, paras. 74-76; **P-1432**: CAR-OTP-2050-0172-R01 at 0179, para. 51.

⁸⁶⁹ See *supra*, para. 221-223 (P-0547).

⁸⁷⁰ **P-1967**: CAR-OTP-2118-6365-R01 at 6467 [REDACTED] ceremony from CAR-OTP-2069-3221 to CAR-OTP-2069-3246.

⁸⁷¹ **P-1432**: CAR-OTP-2050-0172-R01 at 0179, para. 54 (Fr); **P-2478**: CAR-OTP-2110-0745-R02 at 0759, paras. 58-59 (Fr); **P-0547**: CAR-OTP-2018-0389-R01 at 0408, para. 134 (Fr); **P-1762**: CAR-OTP-2073-0568-R01 at 0581-0583, paras. 78-80, 83 and 86.

crowded⁸⁷² cells with only a bucket as a toilet and little or no food or water, thereby causing detainees to have to drink their own urine.⁸⁷³ The cells contained up to 15-20 detainees, making it difficult for them to lie down to rest.⁸⁷⁴

284. Detainees were not provided with adequate food, water or independent medical attention.⁸⁷⁵ They were dependent on their relatives bringing them food.⁸⁷⁶ While the OCRB was well known as a place of detention, the presence of some detainees — especially those in the underground cell — was not acknowledged by the Seleka. As a consequence, the affected detainees went with even less food.⁸⁷⁷

ii. Awareness of the gravity

285. **SAID** was aware of the factual circumstances that established the gravity of the conduct, such that it violated fundamental rules of international law. **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. His knowledge is the only reasonable inference from the evidence outlined in section B.2 and his essential contributions to the crimes described in paragraphs 337 to 348.

b) COUNTS 2 and 3: Crimes of Torture (articles 7(1)(f) and 8(2)(c)(i)-4))

aa. Legal Elements

286. With regard to the mistreatment of detainees at the OCRB, **SAID** is charged with the crime of torture as a crime against humanity and as a war crime.

287. The elements of torture as a crime against humanity pursuant to article 7(1)(f) are as follows: (i) the perpetrator inflicted severe physical or mental pain or suffering upon one or more persons; (ii) such persons were in the custody or under the control

⁸⁷² **P-2263**: CAR-OTP-2127-9708-R01 at 9715, , paras. 23, 26 (Fr). *See also* **P-2478**: CAR-OTP-2110-0745-R02 at 0758, paras. 53-55 (Fr).

⁸⁷³ **P-0622**: CAR-OTP-2022-0121-R01 at 0129, paras. 59, 62 (Fr); **P-0547**: CAR-OTP-2018-0389-R01 at 0396, para. 46 (Fr); **P-0481**: CAR-OTP-2104-1024-R01 at 1035, paras. 59-60 (Fr).

⁸⁷⁴ **P-0547**: CAR-OTP-2018-0389-R01 at 0396, para. 43 (Fr).

⁸⁷⁵ **P-0481**: CAR-OTP-2104-1024-R01 at 1035, para. 60 (Fr); **P-0547**: CAR-OTP-2018-0389-R01 at 0396, paras. 46-47 (Fr); **P-1432**: CAR-OTP-2050-0172-R01 at 0178-0179, paras. 48-51 (Fr); **P-1762**: CAR-OTP-2130-2147-R01 at 2161, paras. 68-70 (Fr). *See also* **P-0338**: CAR-OTP-2130-5761-R01 at 5782-5783, paras. 115-117 (Fr).

⁸⁷⁶ **P-2179**: CAR-OTP-2130-2342-R01 at 2363, para. 93 (Fr); **P-1180**: CAR-OTP-2127-7599-R01 at 7622-723, para. 156 (Fr); **P-1737**: CAR-OTP-2130-2086-R01 at 2099, para. 59 (Fr); **P-1429**: CAR-OTP-2043-0317-R01 at 0325-0326, para. 61 (Fr); **P-1432**: CAR-OTP-2050-0172-R01 at 0179, para. 51 (Fr.).

⁸⁷⁷ **P-2179**: CAR-OTP-2088-2250-R01 at 2268, para. 91 (Eng).

of the perpetrator; (iii) such pain or suffering did not arise only from, and was not inherent in or incidental to, lawful sanctions.⁸⁷⁸ The severity threshold is fact sensitive, and does not necessarily entail lasting suffering so long as it is real and serious. Relevant factors include the nature of the perpetrator's act or omission, the context in which it occurs, its duration and/or repetition, and the effects on the victim having regard to their personal circumstances including age, sex and health.⁸⁷⁹

288. Torture as a war crime under article 8(2)(c)(i) is defined similarly, with the added element that the perpetrator inflicts the pain and suffering for such purposes as obtaining information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind. Further, for the war crime of torture, it is also required that the victims were either *hors de combat*, or were civilians, medical personnel or religious personnel taking no active part in the hostilities.⁸⁸⁰

bb. Material Facts

289. The evidence as summarised above under section B.2. shows that in the relevant timeframe, several detained men at the OCRB were physically and mentally mistreated by Seleka under **SAID's** control, in some instances with his direct participation. Among them, at least 16 male detainees were tied using the *arbatachar* method under orders from and with the knowledge of **SAID**.

i. Arbatachar-method

290. A common method of restraining someone used by the Seleka at the OCRB was to tie detainees up *arbatachar*.⁸⁸¹ This is a technique whereby the hands, elbows and legs are tied tightly behind a person's back, with the legs touching the elbows,

⁸⁷⁸ See *Bemba Confirmation Decision*, para. 191.

⁸⁷⁹ See, e.g., ICTY, *Prosecutor v. Naletilić and Martinović*, IT-98-34-A, Judgment, 3 May 2006, para. 299; *Prosecutor v. Haradinaj et al.*, IT-04-84-bis-T, Judgment, 29 November 2012, para. 417; *Prosecutor v. Krnojelac*, IT-97-25-T, Judgment, 15 March 2002, para. 131. See further *Delalić TJ*, para. 467 (recalling an illustrative catalogue of conduct tending to meet the severity threshold). But see also *Prosecutor v. Brđanin*, IT-99-36-A, Judgment, 3 April 2007, para. 249 (rejecting the view that the severity threshold necessarily requires proof of extreme pain or suffering, or pain equivalent to that accompanying serious physical injury such as organ failure, impairment of bodily function or death).

⁸⁸⁰ Elements of crimes, article 8(2)(c)(i)-4.

⁸⁸¹ **P-2179** [REDACTED]: CAR-OTP-2130-2342-R01 at 2370 (Fr); **Photo:** CAR-OTP-2088-2307. [REDACTED] **P-2239:** CAR-OTP-2130-4729-R01 at 4742, paras. 53-55 (FR).

causing severe pain.⁸⁸² Detainees were then also beaten, in order to extort information or confessions.⁸⁸³ The pain caused by this position was so excruciating that prisoners would ask to be killed; after being tied up for several hours in this position the detainees were unable to walk anymore.⁸⁸⁴ The treatment left them unable to use their limbs;⁸⁸⁵ some were temporarily paralysed;⁸⁸⁶ others had rotten and discoloured arms and could not even feed themselves;⁸⁸⁷ some were so exhausted from the torture that they needed help to even change position.⁸⁸⁸ Several detainees tortured in this manner suffered from infections,⁸⁸⁹ but no medical attention was provided to the prisoners.

ii. Severe beatings

291. The victims give harrowing accounts of beatings in the OCRB. The victims of the “Flyers incident,” for example, were ordered by the Seleka to remove their clothes and lie face down on the floor in the OCRB compound upon their arrival at OCRB on [REDACTED] July 2013.⁸⁹⁰ Seleka elements poured water and threw sand on the detainees’ bare backs, muddied their backs (to increase the pain) and then flogged the men repeatedly with ropes until their backs bled.⁸⁹¹ The victims state that if any of the detainees made a sound or moved, the Seleka flogged them again.⁸⁹² Once the

⁸⁸² Victims of *arbatachar* at OCRB: **P-0622** [REDACTED]: CAR-OTP-2022-0121-R01 at 0131, paras. 79-86 (Fr); **P-0547**: CAR-OTP-2018-0389-R01 at 0397-0398, paras. 56-60 (Fr); **P-2179**: [REDACTED]: CAR-OTP-2088-2250-R01 at 2268, para. 90; **P-2179**: CAR-OTP-2130-2342-R01 at 2362, para. 90 (Fr); CAR-OTP-2130-4729-R01 at 4741, 4743, paras. 47-48, 57 (Fr).

P-2239 (an older man): CAR-OTP-2104-0918-R01 at 0931, para. 57 (Eng); **P-2239**: [REDACTED]: CAR-OTP-2130-4729-R01 at 4741, 4743-4744, paras. 47-48, 57 (Fr); **P-2239**: CAR-OTP-2130-4729-R01 at 4743-4744, para. 57 (Fr); **P-1167** (two prisoners taken away at night): CAR-OTP-2127-7671-R01 at 7696, paras. 139-141 (Fr); **P-0481** (three prisoners taken from the cellar): CAR-OTP-2104-1024-R01 at 1040, paras. 94-95 (Fr); **P-2519**: CAR-OTP-2130-5310-R01 at 5318, 5320, paras. 46-50, 62 (Fr); **P-2105** [REDACTED]: CAR-OTP-2078-0003-R01 at 0019, para. 96 (Fr); **P-3053**: (P-3053, P-3056, [REDACTED]): CAR-OTP-2130-6359-R01 at 6363, 6365-6366, paras. 24, 39-41 (Fr); **P-3056**: CAR-OTP-2130-6639-R01 at 6649, para. 51 (Fr); **P-1737**: ([REDACTED]) CAR-OTP-2130-2086-R01 at 2098-2099, paras. 58-59 (Fr).

⁸⁸³ **P-0338**: CAR-OTP-2130-5761-R01 at 5784, para. 125 (Fr); **P-2105**: CAR-OTP-2081-0037-R01 at 0044, para. 41 (Fr); CAR-OTP-2084-0191-R01 at 0207, para. 94 (first statement); CAR-OTP-2078-0003-R01 at 0019, para. 94 (Fr).

⁸⁸⁴ **P-0547**: CAR-OTP-2018-0389-R01 at 0398, paras. 59-62 (Fr).

⁸⁸⁵ **P-0787**: CAR-OTP-2130-0893-R01 at 0916, para. 97 (Fr).

⁸⁸⁶ **P-0547**: CAR-OTP-2018-0389-R01 at 0398, para. 59 (Fr).

⁸⁸⁷ **P-0787**: CAR-OTP-2130-0893-R01 at 0908, para. 63 (Fr).

⁸⁸⁸ **P-0547**: CAR-OTP-2018-0389-R01 at 0396, para. 44 (Fr).

⁸⁸⁹ **P-0787**: CAR-OTP-2130-0893-R01 at 0908-0909, paras. 63-65 (Fr).

⁸⁹⁰ See *supra*, section starting at para. 172.

⁸⁹¹ **P-1180**: CAR-OTP-2127-7599-R01 at 7622-7623, paras. 154-156 (Fr); **P-2263**: CAR-OTP-2127-9708-R01 at 9714, paras. 21-22.

⁸⁹² **P-1180**: CAR-OTP-2127-7599-R01 at 7622, para. 155 (Fr); **P-2263**: CAR-OTP-2127-9708-R01 at 9714, para. 21 (Fr).

beatings were done, this group of detainees were insulted and kicked with Ranger military boots if they did not get up quickly enough, and made to run towards the entrance of a cell while being beaten with police batons.⁸⁹³

292. Other detainees at the OCRB were beaten with rifle butts,⁸⁹⁴ or slapped and threatened that “[y]ou BOZIZE’s mercenaries, we’re going to kill you one by one”.⁸⁹⁵ Mistreatment of detainees occurred on an almost daily basis at the OCRB.⁸⁹⁶ In detention, prisoners were whipped with strips of rubber tyre or with sticks that had metal wires at the bottom; beaten with truncheons on their feet while kneeling, or with rifle butts; burnt; [REDACTED].⁸⁹⁷
293. P-0481 explains that he was made to [REDACTED].⁸⁹⁸

iii. Specific purpose under article 8

294. The torture was inflicted for the specific purpose of inflicting pain and suffering to obtain information or a confession, to punish, intimidate or coerce the detained persons or for reasons based on discrimination. **SAID** himself endorsed the use of the *arbatachar* method for the purpose of obtaining information. P-0338 states: “When I shared my concerns about such a painful way of tying and beating prisoners with **SAID**, he just replied that the *arbatachar* way is the most effective to obtain confessions.”⁸⁹⁹ P-2478 describes that it was TAHIR and **SAID** who gave the orders for the torturing of the prisoners.⁹⁰⁰
295. In the case of the persons detained because they distributed flyers, the severe beating which they received upon their arrival at the OCRB was intended to punish and intimidate, as it was paired with muddying their backs in order to further increase the pain, and they were told not to cry out or the beating would start again (which happened).⁹⁰¹

⁸⁹³ **P-2263:** CAR-OTP-2127-9708-R01 at 9714, paras. 21-22 (Fr); **P-2295:** CAR-OTP-2135-1852-R01 at 1858, para. 26 (Fr).

⁸⁹⁴ **P-0547:** CAR-OTP-2018-0389-R01 at 0395, para. 38 (Fr).

⁸⁹⁵ **P-0547:** CAR-OTP-2018-0389-R01 at 0395, para. 38 (Fr).

⁸⁹⁶ **P-0787:** CAR-OTP-2130-0893-R01 at 0916, paras. 97-98 (Fr).

⁸⁹⁷ **P-1004:** CAR-OTP-2130-1736-R01 at 1743, para. 39 (Fr); **P-0481:** CAR-OTP-2104-1024-R01 at 1042-1043, paras. 108-110 (Fr); **P-0787:** CAR-OTP-2130-0893-R01 at 0908, para. 64 (Fr); **P-0622:** CAR-OTP-2022-0121-R01 at 0131, para. 84 (Fr); **P-0547:** CAR-OTP-2018-0389-R01 at 0398, para. 59 (Fr).

⁸⁹⁸ **P-0481:** CAR-OTP-2104-1024-R01 at 1042-1043, paras. 109-110 (Fr).

⁸⁹⁹ **P-0338:** CAR-OTP-2130-5761-R01 at 5781, para. 105 (Fr).

⁹⁰⁰ **P-2487:** CAR-OTP-2110-0745-R02 at 0757, para. 50 (Fr).

⁹⁰¹ See supra, para. 173, 178, 179.

iv. The detainees were civilians in the custody and under control of SAID

296. At all material times, the detainees tortured were in the custody and under control of the OCRB-Seleka, who were subordinates of **SAID**. This is evidenced by the accounts of the witnesses themselves who were detained at the OCRB,⁹⁰² as well as witnesses who worked at the OCRB.⁹⁰³
297. Further, including for the purposes of article 8(2)(c)(i), detainees were civilians taking no active part in hostilities. **SAID** and the other perpetrators were aware of the factual circumstances that established their status as civilians or at minimum that they were *hors de combat* at the time of the torture.

c) COUNT 4: Cruel treatment as a war crime (article 8(2)(c)(i))

aa) Legal Elements

298. **SAID** is charged with the war crime of cruel treatment regarding the detention conditions at the OCRB as well as the regular physical mistreatment of the detainees.
299. The specific elements of this crime are: (i) the perpetrator inflicted severe physical or mental pain or suffering upon one or more persons; (ii) such person was either *hors de combat*, or were civilians, medical personnel, or religious personnel taking no active part in hostilities.

bb) Material Facts

300. As outlined above, detainees were tied using the method of *arbatachar*, regularly beaten and otherwise severely mistreated at the OCRB.
301. The detainees were civilians taking no active part in hostilities. **SAID** and the Seleka elements under his command were aware of the factual circumstances that established their status as civilians or at minimum that they were *hors de combat* at the time of the mistreatment.

⁹⁰² See Section B.2.

⁹⁰³ See Section C.

**d) COUNT 5: Other inhumane acts of a similar character intentionally
causing great suffering, or serious injury to body or to mental or physical
health (article 7(1)(k))**

aa. Legal Elements

302. The legal elements of the crime require that (i) the perpetrator inflicted great suffering, or serious injury to body or to mental or physical health, by means of an inhumane act; (ii) such act was of a character similar to any other act referred to in article 7, paragraph 1 of the Statute; (iii) the perpetrator was aware of the factual circumstances that established the character of the act.⁹⁰⁴ The crime of ‘other inhumane acts’ is residual in nature—article 7(1)(k) was included to recognise that it was impossible to exhaustively enumerate every inhumane act which could constitute a crime.⁹⁰⁵ If the act is the same as one of the enumerated acts under article 7(1), with an *identical* ‘character’ in terms of its nature, harm suffered and protected interests involved, then the second material element under article 7(1)(k) is not satisfied.⁹⁰⁶ However, a conviction under article 7(1)(k) can be entered when the full scope of the culpable conduct is not reflected in its qualification under an enumerated crime(s) alone.⁹⁰⁷ A Chamber can enter a conviction under article 7(1)(k) for conduct which, despite comprising acts under one or more enumerated crimes, is, in its entirety, not identical, but nonetheless ‘similar’ in character in terms of its nature and gravity, to those enumerated crimes.⁹⁰⁸

bb. Material Facts

303. The conditions of detention at the OCRB inflicted upon the detainees fulfil the elements of other inhumane acts as a crime against humanity. The detainees were squeezed into small cells. P-1167 estimates that there were 12-15 detainees per cell, a mixture of arrests from the Seleka rapid interventions and detainees brought in by the Seleka Colonels on their own accord.⁹⁰⁹ Like the victims themselves, P-1167

⁹⁰⁴ Elements of Crimes, article 7(1)(k). See also *Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, Decision on the Confirmation of Charges, ICC-01/04-01/07-717, 30 September 2008, (“*Katanga & Ngudjolo* Confirmation Decision”), para. 447; *Ongwen* TJ, para. 2743.

⁹⁰⁵ *Ongwen* TJ, para. 2745.

⁹⁰⁶ *Ongwen* TJ, para. 2746.

⁹⁰⁷ *Ongwen* TJ, para. 2747.

⁹⁰⁸ *Ongwen* TJ, para. 2747.

⁹⁰⁹ **P-1167: CAR-OTP-2127-7671-R01** at 7693, para. 122 (Fr).

describes that the cells were overcrowded with detainees, who could not lie down to rest or sleep.

304. The detainees were scared, thirsty, hungry and unable to sleep. The temperature was stifling hot in the cells. They were dependent on relatives to bring them food and were often hungry and thirsty.⁹¹⁰
305. P-2478 explains that [REDACTED] the Red Cross and MSF come to the OCB to give detainees some medicine only once or twice [REDACTED].⁹¹¹
306. Prisoners like P-0547, P-2400, P-3053, P-3056, P-3064, P-1432, P-1762, P-2179 and others were detained in an underground cell by SAID, which was accessed through a hole in the floor on the OCB main building that Seleka elements covered with boards and had placed a desk on top.⁹¹² According to P-0787, the underground cell held up to three detainees at any one time,⁹¹³ but victims describe it being crowded at times.⁹¹⁴ This cell was being used as early as April 2013 but in mid-August 2013 the usage increased. On or around 22 August 2013, one of the detainees found a dead prisoner who had just been left there among the others, and he saw another detainee who had suffered from a mental breakdown and was constantly holding onto a bone he had found in there.⁹¹⁵
307. The detention conditions for these basement-detainees were particularly dire, as described by the victims themselves as well as by persons working in the OCB.⁹¹⁶ P-2478, [REDACTED] at the relevant time, describes that one day in late August [REDACTED] at least five prisoners whom [REDACTED] feared “were going to die, as they still had their hands tied in front of them – and undoubtedly for days, as their hands had started to swell. They were bleeding and they looked as if they had

⁹¹⁰ **P-1167:** CAR-OTP-2127-7671-R01 at 7692, para. 115 (Fr).

⁹¹¹ **P-2487:** CAR-OTP-2110-0745-R02 at 0757-0758, para. 52 (Fr).

⁹¹² **P-0787:** CAR-OTP-2130-0893-R01 at 0907, paras. 58-59 (Fr); **P-0547:** CAR-OTP-2018-0389-R01 at 0398-0399, paras. 64, 66 (Fr); **P-1762:** CAR-OTP-2130-2147-R01 at 2159, paras. 60-61, 66 (Fr). **P-1737:** CAR-OTP-2130-2086-R01 at 2098-2099, paras. 58-59 (Fr) ([REDACTED]); **P-2519:** CAR-OTP-2130-5310-R01 at 5319-5320, para. 59 (Fr); **P-2179:** CAR-OTP-2130-2342-R01 at 2361-2362, paras. 87-89, 91 (Fr); **P-1762:** CAR-OTP-2130-2147-R01 at 2159, para. 60 (Fr); **P-1432:** CAR-OTP-2050-0172-R01 at 0178, paras. 41, 43 (Fr); **P-2400:** CAR-OTP-2130-4712-R01 at 4722-4723, paras. 43-44 (Fr); **P-0787:** CAR-OTP-2130-0893-R01 at 0907-0908, paras. 58-59 (Fr).

⁹¹³ **P-0787:** CAR-OTP-2130-0893-R01 at 0907, para. 59 (Fr).

⁹¹⁴ See *supra*, paras. 149, 158, 190.

⁹¹⁵ **P-0547:** CAR-OTP-2018-0389-R01 at 0398-0399, paras. 65-72 (Fr).

⁹¹⁶ **P-0547:** CAR-OTP-2018-0389-R01 at 0399, para. 70 (Fr).

been tortured.”⁹¹⁷ Soon after, the police at the OCRB alerted authorities and organisations who came to the OCRB. Among those who came were French troops who took photographs of the prisoners in the basement.⁹¹⁸ According to P-2478, **SAID** and **TAHIR** were present when the prisoners were taken out of the hole that day.⁹¹⁹ P-2478 states that [REDACTED] complained to Prosecutor [REDACTED] about the mistreatment of those prisoners and that he stated that these were the prisoners [REDACTED].⁹²⁰ The mistreatment of these males, including their conditions of detention, inflicted on them great suffering, or great suffering or serious injury to body or to mental or physical health. The pain and suffering did not arise from and was not inherent in or incidental to lawful sanctions.

308. **SAID** was aware of the factual circumstances that established the character of the acts as charged in COUNT 5 as acts similar to to other acts referred to in article 7(1) of the Statute. His awareness is reasonably inferred from the evidence relating to his role at the OCRB⁹²¹ and his actions (contributions) as outlined below.⁹²²

e) COUNT 6: Outrages upon personal dignity as a war crime (8(2)(c)(ii))

309. The mistreatment of the detainees including subjecting them to the inhumane detention conditions also fulfils the elements of the war crime of outrages upon personal dignity pursuant to article 8(2)(c)(ii) of the Statute. For the crime of outrages upon personal dignity, the perpetrator must (i) have humiliated, degraded or otherwise violated the dignity of one or more persons; and (ii) the severity of the humiliation, degradation or other violation was of such a degree as to be generally recognised as an outrage upon personal dignity.⁹²³ In addition to the extreme pain caused, the torture method of tying someone *arbatachar* puts the victim in a bodily position designed to humiliate and degrade. Finally, the detention conditions, especially herding prisoners into crowded cells and depriving them of adequate food, water, sanitation and medical attention, including in the underground cell, also severely violates the detainee’s dignity. The detainees were civilians or at minimum

⁹¹⁷ **P-2478: CAR-OTP-2110-0745-R02** at 0758, paras. 54-55 (Fr).

⁹¹⁸ **Response of the French Ministry Defence: CAR-OTP-2102-0614-R02** at 0615; **CAR-OTP-2102-0637** (Photograph of P-0547).

⁹¹⁹ **P-2478: CAR-OTP-2110-0745-R02** at 0759, para. 57 (Fr).

⁹²⁰ **P-2478: CAR-OTP-2110-0745-R02** at 0759, para. 59 (Fr).

⁹²¹ *See supra*, paras. 110-128.

⁹²² *See* Section C.1.c).

⁹²³ Elements of Crimes, article 8(2)(c)(ii); *See Katanga & Ngudjolo* Confirmation Decision, para. 367, 369.

hors de combat at the time of their mistreatment. **SAID** was aware that the persons detained at the OCB were civilians or *hors de combat*.⁹²⁴

f) COUNT 7: Crime of persecution (article 7(1)(h))

aa. Legal Elements

310. For the crime of persecution, the perpetrator must (i) have severely deprived, contrary to international law, one or more persons of fundamental rights; (ii) targeted such person or persons by reason of the identity of a group or collectivity or targeted the group or collectivity as such; (iii) such targeting was based on political, racial, national, ethnic, cultural, religious, gender or other grounds; (iv) the conduct was committed in connection with any act referred to in article 7, paragraph 1, of the Statute or any crime within the jurisdiction of the Court (nexus requirement).
311. As detailed below, **SAID** and other co-perpetrators targeted the detainees at the OCB, who were perceived as BOZIZE supporters, on political, ethnic, religious, and/or gender grounds, committing the crime of persecution. The detainees were imprisoned, tortured, subjected to outrages upon personal dignity, cruel treatment and other inhumane acts.

bb. Material Facts

i. Targeting of detainees perceived as pro-BOZIZE supporters

312. At the material times, **SAID** and other perpetrators targeted the detainees in the OCB whom they perceived as supporting BOZIZE on political, ethnic, religious, and/or gender grounds. They targeted these individuals by reason of the identity of a group or collectivity within the meaning of article 7(1)(h).
313. The victims⁹²⁵ who were subjected to the treatment outlined under Counts 1 – 6 were predominantly members of the Christian religion. They were also predominantly

⁹²⁴ See paras. 113-116, section C.1 c).

⁹²⁵ See, e.g., **P-1289**: CAR-OTP-2127-7632-R01 at 7633 (Fr) (Catholic, Banda); **P-0481**: CAR-OTP-2104-1024-R01 at 1025 (Fr) (Christian, Gbaya); **P-1429**: CAR-OTP-2043-0317-R01 at 0317 (Fr) (Catholic, Yakoma); **P-0547**: CAR-OTP-2018-0389-R01 at 0389 (Fr) (Christian Gbaya); **P-2179**: CAR-OTP-2130-2342-R01 at 2343 (Fr) (Catholic, Mandja); **P-2519**: CAR-OTP-2130-5310-R01 at 5311 (Fr) (Protestant, Mandja); **P-2263**: CAR-OTP-2130-6271-R01 at 6272 (Fr) (Christian, Banda); **P-2692**: CAR-OTP-2125-0922-R01 at 0922 (Eng) (Protestant, Gbaya); **P-0622**: CAR-OTP-2022-0121-R01 at 0121 (Fr) (Christian, Gbaya); **P-1737**: CAR-OTP-2130-2086-R01 at 2098, para. 58 (the Christian [REDACTED]).

from certain ethnic groups, namely from the Gbaya ethnic group, which is the ethnic group of BOZIZE,⁹²⁶ or from the ethnic groups of Mandja and Banda, also overwhelmingly Christian.⁹²⁷

314. The victims of the charged crimes who were arrested and brought to the OCRB were from certain neighbourhoods in Bangui where the population was traditionally supportive of the former President, the 4th *arrondissement* (especially the Boy Rabe area) and the 7th *arrondissement*.⁹²⁸ Some were [REDACTED] who had served under BOZIZE or had worked for him in other functions and who were therefore deemed loyal to the former President and thus hostile to the new regime.⁹²⁹ Furthermore, the victims were predominantly male.

ii. Deprivation of rights and nexus to the crimes

315. **SAID** and the OCRB-Seleka, including elements under his control, severely deprived, contrary to international law, these persons of fundamental rights, including the right to life, bodily integrity, freedom of movement and not to be subjected to torture or cruel, inhumane or degrading treatment. The charged crimes at the OCRB as outlined in Counts 1 – 6 constitute the underlying conduct of the count of persecution.

iii. Political, ethnic, religious, and/or gender grounds

316. **SAID** is charged with persecution committed on political, ethnic, religious, and/or gender grounds.⁹³⁰

⁹²⁶ **P-2232**: CAR-OTP-2107-6147-R01 at 6157, para. 58 (Gbaya was the ethnic group of BOZIZE).

⁹²⁷ **P-1289**: CAR-OTP-2127-7632-R01 at 7633 (Fr) (Catholic, Banda); **P-2179**: CAR-OTP-2130-2342-R01 at 2343 (Fr) (Catholic, Mandja); **P-2519**: CAR-OTP-2130-5310-R01 at 5311 (Fr) (Protestant, Mandja); **P-2263**: CAR-OTP-2130-6271-R01 at 6272 (Fr) (Christian, Banda).

⁹²⁸ **P-0547**: CAR-OTP-2018-0389-R01 at 0395, para. 38 (Fr) (4th *arrondissement*).

⁹²⁹ **P-1289**: CAR-OTP-2127-7632-R01 at 7640, paras. 13, 37 (Fr) ([REDACTED]); **P-2519**: CAR-OTP-2130-5310-R01 at 5313, 5316, paras. 12, 14-15, 32 (Fr) ([REDACTED]); **P-2179**: CAR-OTP-2130-2342-R01 at 2345, 2349, paras. 12-13, 30 (Fr) ([REDACTED]); **P-2931**: CAR-OTP-2135-2245-R01 at 2248-2249, paras. 17-18, 24-27 (Fr) (arrested with [REDACTED] Oswald SANZE who was a FACA); **P-0481**: CAR-OTP-2104-1024-R01 at 1028-1029, 1034-1035, 1042, paras. 15, 18, 22-23, 53, 56, 102-106 (Fr) ([REDACTED]); **P-0622**: CAR-OTP-2022-0121-R01 at 0126, 0129, 0130, paras. 15-17, 28-34, 52, 58, 71 (Fr) ([REDACTED]); **P-1762**: CAR-OTP-2130-2147-R01 at 2150, 2159, paras. 11, 14, 57, 59 (Fr) ([REDACTED]); **P-2240**: CAR-OTP-2110-0780-R01 at 0782, 0788, paras. 11-12, 29 (Fr) ([REDACTED]).

⁹³⁰ Persecution may be charged on multiple grounds for the same conduct, *see Prosecutor v. Laurent Gbagbo*, Decision on the confirmation of charges against Laurent Gbagbo, ICC-02/11-01/11-656-Red, 12 June 2014, (“*Gbagbo* Confirmation Decision”), para. 205.

317. As described throughout this Trial Brief, OCRB detainees were arrested, imprisoned and subjected to torture, cruel treatment, outrages upon their dignity and other inhumane acts because of their perceived status as supporters of BOZIZE. The different factors (political, ethnic, religious and gender) all underpinned the perpetrators' perception of the victims as BOZIZE supporters. These multiple, often intersecting, discriminatory grounds best describe and fully capture all aspects of the discriminatory targeting. The victims were targeted because of their actual or perceived political affiliations (*political* grounds);⁹³¹ because they were members of the Gbaya or other ethnic groups perceived to traditionally support BOZIZE,⁹³² used as a proxy to identify supporters of BOZIZE who was himself a Gbaya (*ethnic* grounds);⁹³³ because they were *all* Christian⁹³⁴ and the association with the religion was also indicative of supporting BOZIZE (*religious* grounds); and in the context of a clear pattern of gendered targeting, where the vast majority of victims of the charged crimes relating to the arrests, detention and mistreatment were male (*gender* grounds).⁹³⁵
318. Individuals who were detained at the OCRB included a close associate of BOZIZE;⁹³⁶ [REDACTED];⁹³⁷ [REDACTED];⁹³⁸ a [REDACTED] alleged to have anti-DJOTODIA pamphlets in his possession; ⁹³⁹ [REDACTED]; ⁹⁴⁰ [REDACTED];⁹⁴¹ and a [REDACTED].⁹⁴²
319. Some of the men detained at the OCRB were also detained because they were FACA or former Presidential guards.⁹⁴³ According to [REDACTED], P-2563, the targeting

⁹³¹ *Ongwen* TJ, para. 2737.

⁹³² See Section B.2.

⁹³³ See, e.g., **P-0100**: CAR-OTP-2118-6331-R01 at 6338, para. 31 (Fr).

⁹³⁴ **P-2504**: CAR-OTP-2107-8430-R01 at 8433-8434, para. 14 (Fr) [REDACTED].

⁹³⁵ See *Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Rectificatif à la Décision relative à la confirmation des charges portées contre Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, ICC-01/12-01/18-461-Corr-Red, 13 November 2019 paras. 697-699.

⁹³⁶ **P-0481**: CAR-OTP-2104-1024-R01 at 1028-1029, 1035, paras. 15, 18, 22-23, 56 (Fr).

⁹³⁷ **P-1289**: CAR-OTP-2127-7632-R01 at 7635, 7640, 7642, paras. 13, 37, 49 (Fr).

⁹³⁸ **P-1762**: CAR-OTP-2130-2147-R01 at 2150, 2159, paras. 11, 14, 57, 59 (Fr); **P-2179**: CAR-OTP-2130-2342-R01 at 2345, at 2349, paras. 12-13, 30 (Fr); **P-2240**: CAR-OTP-2110-0780-R01 at 0782, 0788-0789, paras. 11-12, 29 (Fr).

⁹³⁹ **P-1180**: CAR-OTP-2127-7599-R01 at 7602, 7604-7606, 7622, paras. 12, 25-39, 153 (Fr).

⁹⁴⁰ **P-1429**: CAR-OTP-2043-0317-R01 at 0319, 0320, 0322, 0324, paras. 12, 20-21, 33, 48 (Fr).

⁹⁴¹ **P-0622**: CAR-OTP-2022-0121-R01 at 0124, 0125, 0128, paras. 15-17, 28-34, 52 (Fr).

⁹⁴² **P-0547**: CAR-OTP-2018-0389-R01 at 0392, 0394-0396, paras. 18, 20, 29-38, 43 (Fr).

⁹⁴³ **P-2240**: CAR-OTP-2110-0780-R01 at 0782, 0788-0789, paras. 11-12, 29 (Fr).

of the FACA soldiers was combined with the objective of finding weapons.⁹⁴⁴ However, the FACA were arrested (sometimes in their own homes) solely on account of being members of the military.⁹⁴⁵ There is no evidence that any of them were taking active part in hostilities when they were arrested.

320. Detainees were taken to the OCRB from Boy Rabe because they lived there and/or were affiliated with persons from that neighbourhood, as part of the retaliation against the neighbourhood as a whole.⁹⁴⁶ As noted above, according to P-1167, **SAID** took part in the second operation, when the Seleka attacked Boy Rabe after the inauguration, looking for BOZIZE supporters and committing crimes against the civilians in the neighbourhood at the same time.⁹⁴⁷

iv. Acting with a discriminatory intent

321. **SAID** and the OCRB-Seleka under his command, and those he cooperated and coordinated with, committed the charged crimes with discriminatory intent. This is demonstrated by: (i) acts and language used during charged incidents by members of the OCRB-Seleka, including ADAM; and (ii) the pattern of conduct of the charged incidents and the pattern of other incidents involving OCRB-Seleka, and **SAID**, during the charged period.

1. Acts and language used during charged incidents

322. Verbal utterances made by the OCRB-Seleka demonstrate the discriminatory intent behind the arrests and mistreatment of OCRB detainees, as illustrated by the following accounts:

- When P-1289 asked about the reason for his arrest, he was told by Colonel MAHAMAT SALLET who had arrested him, that he was recognised as someone who [REDACTED] and “did something to one of their brothers”. SALLET took P-1289 at OCRB from

⁹⁴⁴ **P-2563**: CAR-OTP-2130-4811-R01 at 4814, lns. 69-71 (Fr); **P-2563**: CAR-OTP-2130-5873-R01 at 5887-5888, lns. 455-465 (Fr).

⁹⁴⁵ **P-2563**: CAR-OTP-2118-9208-R01 at 9220, lns. 396-397 (Eng); **P-0787**: CAR-OTP-2130-0893-R01 at 0909, para. 68 [REDACTED]; **P-2179**: CAR-OTP-2130-2342-R01 at 2348-2349, 2361-2362, paras. 28-31, 85-93 (Fr); **P-1762**: CAR-OTP-2130-2147-R01 at 2148, 2159-2163, paras. 20-23, 34, 57-75 (Fr); **P-1432**: CAR-OTP-2050-0172-R01 at , 0175-0178, paras. 23, 25, 28, 36, 39, 41 (Fr).

⁹⁴⁶ **P-0787**: CAR-OTP-2130-0893-R01 at 0899, para. 25 (Fr); **P-0338**: CAR-OTP-2068-0244-R01 at 0265, para. 121 (Eng).

⁹⁴⁷ **P-1167**: CAR-OTP-2127-7671-R01 at 7701, para. 166 (Fr).

where, during his detention, P-1289 was taken to NOUREDINE [REDACTED]. NOUREDINE questioned P-1289 about his [REDACTED].⁹⁴⁸

- At the OCRB, the Seleka threatened P-0622 that “[you], BOZIZE people, would be sorry” and that they would “kill [them] all”.⁹⁴⁹ During the torture sessions, the Seleka questioned P-0622 and other detainees about their links to BOZIZE and the FACA.⁹⁵⁰
- When ADAM visited the OCRB, he addressed the detainees, calling them animals who supported BOZIZE, and stated that the Seleka would be running the country for 15 to 20 years, and would kill the lot of them.⁹⁵¹ P-0481, [REDACTED],⁹⁵² was interrogated by ADAM, who called him “[REDACTED]” and extensively asked questions about BOZIZE.⁹⁵³ [REDACTED].
- P-0547 heard that ADAM had given orders for his torture so that he would reveal the identity of BOZIZE’s mercenaries.⁹⁵⁴ ADAM was present when a detainee was tortured and interrogated about his involvement with BOZIZE in transmitting money for acts against the Seleka regime.⁹⁵⁵
- P-0547 was arrested [REDACTED] about the Seleka attack on [REDACTED]. At the OCRB, a Seleka General told him: “you, BOZIZE mercenaries, we are going to kill you, one by one”.⁹⁵⁶ When interrogated, the Seleka told him that they knew about [REDACTED], accused him of always speaking critically of the Seleka regime, and pressed him to confess with whom he worked.⁹⁵⁷
- P-3056 states that **SAID** accused him of supporting BOZIZE.⁹⁵⁸
- P-2400 was arrested on account of his family name [REDACTED], perceived to support BOZIZE.⁹⁵⁹

⁹⁴⁸ **P-1289**: CAR-OTP-2127-7632-R01 at 7640-7641, paras. 37, 42-43, 80-83 (Fr).

⁹⁴⁹ **P-0622**: CAR-OTP-2022-0121-R01 at 0128, para. 54 (Fr).

⁹⁵⁰ **P-0622**: CAR-OTP-2022-0121-R01 at 0130, paras. 70-71 (Fr).

⁹⁵¹ **P-0622**: CAR-OTP-2022-0121-R01 at 0129, para. 65 (Fr).

⁹⁵² **P-0481**: CAR-OTP-2104-1024-R01 at 1028, paras. 15, 18 (Fr).

⁹⁵³ **P-0481**: CAR-OTP-2104-1024-R01 at 1042, paras. 102-106 (Fr).

⁹⁵⁴ **P-0547**: CAR-OTP-2025-0566-R01 at 0579, para. 88 (Eng).

⁹⁵⁵ **P-1737**: CAR-OTP-2130-2086-R01 at 2098-2099, paras. 58-59 (Fr).

⁹⁵⁶ **P-0547**: CAR-OTP-2025-0566-R01 at 0573, para. 38 (Eng).

⁹⁵⁷ **P-0547**: CAR-OTP-2025-0566-R01 at 0578, paras. 78-83 (Eng).

⁹⁵⁸ **P-3056**: CAR-OTP-2130-6639-R01 at 6647, para. 43 (Fr).

⁹⁵⁹ **P-2400**: CAR-OTP-2104-0424-R01 at 0429, para. 28 (Eng).

- P-2692 states that **SAID** believed him to be related to [REDACTED] a close associate of BOZIZE.⁹⁶⁰

323. In addition, during their imprisonment at the OCRB, detainees heard that other individuals were also arrested, detained, and tortured because the Seleka at the OCRB perceived them as BOZIZE supporters.⁹⁶¹

2. Pattern of conduct

324. Moreover, the charged conduct also demonstrates a persecutory pattern from which the discriminatory intent can be reasonably inferred.⁹⁶²

C. Individual Criminal Responsibility for Crimes at the OCRB

1. Article 25(3)(a): Direct Co-Perpetration

325. **SAID** is charged with direct co-perpetration pursuant to article 25(3)(a) for Counts 1–7 committed at the OCRB. The elements of co-perpetration are:⁹⁶³ (a) the existence of a common plan or agreement between two or more persons, including the accused,⁹⁶⁴ that includes “a critical element of criminality;”⁹⁶⁵ (b) the accused provided an essential contribution to the crimes within the framework of the common plan;⁹⁶⁶ (c) the accused meant to engage in the conduct which constituted his essential contribution;⁹⁶⁷ (d) the accused intended the execution of the material elements of the crime or was aware that the implementation of the agreement between the co-perpetrators would in the ordinary course of events result in execution of the material elements of the crimes;⁹⁶⁸ and (e) the accused was aware

⁹⁶⁰ **P-2692**: CAR-OTP-2125-0922-R01 at 0927, para. 30 (Eng).

⁹⁶¹ **P-0481**: CAR-OTP-2104-1024-R01 at 1042-1043, paras. 62, 64, 69, 86, 95, 103-104, 107-112 (Fr); **P-0622**: CAR-OTP-2022-0121-R01 at 0129, 0131, paras. 58, 86 (Fr); **P-1289**: CAR-OTP-2127-7632-R01 at 7643, para. 55, 83, 90 (Fr). See also **P-1737**: CAR-OTP-2130-2086-R01 at 2098-2099, paras. 51-52, 58-59, 64-65 (Fr).

⁹⁶² See also *supra*, section B.2.

⁹⁶³ *Prosecutor v. Bosco Ntaganda*, Judgment on the appeals of Mr Bosco Ntaganda and the Prosecutor against the decision of Trial Chamber VI of 8 July 2019 entitled “Judgment”, Separate opinion of Judge Howard Morrison on Mr Ntaganda’s appeal, ICC-01/04-02/06-2666-Anx2, 30 March 2012; *Lubanga TJ*, para. 16.

⁹⁶⁴ *Bemba et al. AJ*, para. 818; *Lubanga AJ*, para. 445; *Katanga & Ngudjolo Confirmation Decision*, para. 522.

⁹⁶⁵ *Ntaganda TJ*, paras. 774-776; *CAR Article 70 TJ*, para. 67; *Lubanga TJ*, para. 984.

⁹⁶⁶ *CAR Article 70 AJ*, paras. 818-820; *Lubanga AJ*, para. 469. The contribution must be such that that some or all of the crimes resulting from the implementation of the common plan “would not have been committed or would have been committed in a significantly different way.” See *Gbagbo Confirmation Decision*, para. 230; *Prosecutor v. Charles Blé Goudé*, Decision on the confirmation of charges against Charles Blé Goudé, ICC-02/11-02/11-186, 11 December 2014, para. 135; *Ntaganda AJ*, paras. 22, 1041.

⁹⁶⁷ *Prosecutor v. Charles Blé Goudé*, Decision on the confirmation of charges against Charles Blé Goudé, 11 December 2014, ICC-02/11-02/11-186, paras. 366-367; *Katanga & Ngudjolo Confirmation Decision*, para. 538.

⁹⁶⁸ *CAR Article 70 TJ*, paras. 67, 70; *Lubanga TJ*, para. 1008; *CAR Article 70 TJ*, para. 70; *Ongwen TJ*, para. 2788.

that the common plan or agreement involved an element of criminality;⁹⁶⁹ and of the factual circumstances that enabled him, together with other co-perpetrators, to jointly exercise functional control over the crime.⁹⁷⁰ This latter aspect is established by showing that the accused was aware of his critical role in the implementation of the plan and his ability to frustrate the commission of the crimes.⁹⁷¹

326. The evidence shows that **SAID** together with ADAM, TAHIR, DAMBOUCHA, YAYA, NOIRO, SALLET, RAKISS, AL-BACHAR, and other members of the OCRB-Seleka, who committed the material elements of the charged crimes, 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 and that contributed essentially to the common plan.
327. The Common Plan had come into existence at least by 12 April 2013 or when the first incident described above took place. On or about 12 April 2013, **SAID** was appointed *de facto* head of the OCRB and TAHIR was made his deputy.⁹⁷² Directly after taking control of the OCRB, the Seleka under **SAID**'s command arrested and detained persons there.⁹⁷³ The first victim known to have been detained because he was a perceived BOZIZE supporter was P-1289 in May 2013.⁹⁷⁴

a) Common Plan/ Agreement to commit the crimes at the OCRB

328. **SAID** committed the crimes charged in furtherance of a common plan or agreement that he shared with his superior, ADAM,⁹⁷⁵ his deputy, TAHIR,⁹⁷⁶ his subordinate elements like YAYA and NOIRO,⁹⁷⁷ and his close associate DAMBOUCHA,⁹⁷⁸ as well as the OCRB Seleka elements under **SAID**'s control.⁹⁷⁹ Further, the Seleka Generals SALLET, RAKISS and AL-BACHAR,⁹⁸⁰ who also committed the material elements of the charged crimes, were members of this common plan. Their

⁹⁶⁹ *Lubanga*, Confirmation Decision, paras. 361-365.

⁹⁷⁰ *Lubanga TJ*, para. 1013; *Katanga TJ*, para. 1415. See also *Ntaganda AJ*, para. 1045.

⁹⁷¹ *Lubanga TJ*, para. 1013; *Katanga TJ*, para. 1415. See also *Ntaganda AJ*, para. 1045.

⁹⁷² See *supra*, paras. 111 – 114.

⁹⁷³ See **P-2105: CAR-OTP-2078-0003-R01** at 0013-0014, paras. 63-64 (Fr).

⁹⁷⁴ See *supra*, para. 137.

⁹⁷⁵ See *supra*, paras. 118-119.

⁹⁷⁶ See *supra*, para. 114.

⁹⁷⁷ See *supra*, para. 114.

⁹⁷⁸ See *supra*, para. 115.

⁹⁷⁹ See *supra*, para. 112-113.

⁹⁸⁰ See *supra*, paras. 122-125.

agreement with each other and **SAID** was to target perceived BOZIZE supporters in Bangui by committing the crimes charged in Counts 1-7 at the OCRB.

329. This agreement can be inferred from the commission of the crimes, as they are summarised in paragraphs 29 and 33 to 38 of the Confirmation Decision (Operative Part); from the actions of the co-perpetrators, including those of **SAID**,⁹⁸¹ and from the subsequent conduct of the co-perpetrators at the CEDAD, including ADAM, TAHIR, and DAMBOUCHA, namely their continuation of the same pattern of criminal behaviour, only in a more clandestine fashion by hooding and disorienting the detainees.⁹⁸²

b) Members of the common plan

330. The co-perpetrators are those Seleka described above in paragraph 333.

c) *Essential Contributions to the crimes under articles 25(3)(a)*

331. **SAID** exercised control over the commission of the crimes charged in Counts 1 – 7 by virtue of his essential contributions to the crimes in the context of the common plan. These are set out in paragraph 34 of the Charges. The evidence, on which these contributions are based, is provided by the following [REDACTED] witnesses: P-0338, P-2105, P-1167, P-2563, P-2161, P-2504, P-0787, P-1737 and P-2478. In addition, some victims provide direct evidence of **SAID**'s involvement in crimes as well as documentation in support of his role and authority at the OCRB.

⁹⁸¹ See *infra*, paras. 332-356. See *Ntaganda* AJ, paras. 918, 920, 922 (stating that the existence of a common plan can be inferred from the wider circumstances [including the commission of the crimes by individual soldiers] and from the concerted actions of the co-perpetrators).

⁹⁸² The PTC found that the Prosecution had not proven to the required threshold that a link exists between **SAID** and the crimes allegedly committed at the CEDAD and that therefore the Prosecution failed to establish substantial grounds to believe that **SAID** is individually criminally responsible in connection to the charges brought for crimes at CEDAD (see ICC-01/14-01/21-218-Red, paras. 125-153). The PTC did not make any findings about whether crimes did occur at the CEDAD or whether there was a common plan to commit such crimes at the CEDAD. At trial, the Prosecution plans to rely on evidence about the activities of OCRB common members at the CEDAD as circumstantial evidence supporting the existence of the OCRB common plan. The Prosecution does not intend to call any witnesses solely for the purpose of presenting evidence about the acts and conduct of OCRB common plan members at the CEDAD, but it does intend to elicit this type of evidence where available from the witnesses the Prosecution is already calling to prove the OCRB charges (*e.g.*, P-2105 and P-1167). As noted above, the Prosecution also relies on evidence about the events at the CEDAD during September and November 2013 as an example of the Seleka's attack against the civilian population in Bangui perceived as supporting BOZIZE and, relatedly, of the Seleka's policy to carry out such an attack.

**i. Arresting and detaining perceived BOZIZE supporters at the
OCRB – including detaining victims in an underground cell
situated under SAID’s office in the OCRB**

332. The evidence shows that **SAID** coordinated arrests and detention with ADAM, TAHIR, DAMBOUCHA, and YAYA on a regular basis according to insider witnesses. In addition, the evidence shows that **SAID** arrested detainees together with SALLET, RAKISS and AL-BACHAR.⁹⁸³
333. This regular coordination regarding detainees also included other high-ranking Seleka, including President DJOTODIA and members of his Presidential Security at *Camp de Roux*, for example regarding the men detained as part of the “Flyers incident” and the persons brought in after DJOTODIA’s inauguration which was on 18 August 2013.⁹⁸⁴
334. Arrests and searches in Bangui increased when **SAID** arrived at the OCRB. P-2105 states that **SAID**’s men would go out, arrest people, and [torture] them in the courtyard.⁹⁸⁵ The official police officers arrived shortly after ADAM was appointed as MoPS and after **SAID**’s appointment, when DJOTODIA had called them back to duty.⁹⁸⁶ P-2105 also states that while ADAM told **SAID** that he was in charge of the security of the OCRB, it was the police (“gendarmes”) who were in charge of investigations, since **SAID** had not been trained as a police officer.⁹⁸⁷ The presence of the police officers at the OCRB, however, had no impact on **SAID** carrying out his arrests and interrogations. According to P-2105, the police officers were merely figureheads.⁹⁸⁸ This is corroborated by P-0338, [REDACTED], who states that [REDACTED] ADAM and **SAID** would speak [REDACTED].⁹⁸⁹ Also, the Seleka would go on nightly patrols [REDACTED].⁹⁹⁰
335. **SAID** participated directly in the arrest and detention of the soldier [REDACTED] June 2013.⁹⁹¹

⁹⁸³ Confirmation Decision (Operative Part), para. 34 a); **P-1737**: CAR-OTP-2130-2086-R01 at 2098-2100, paras. 58-59, 64-65 (Fr); *see also* **P-1289**: CAR-OTP-2127-7632-R01 at 7641-7642, paras. 46, 48 (Fr); **P-0547**: CAR-OTP-2018-0389-R01 at 0394-0395, paras. 32-38 (Fr).

⁹⁸⁴ **P-0547**: CAR-OTP-2018-0389-R01 at 0403, para. 99 (Fr); **P-2179**: CAR-OTP-2130-2342-R01 at 2358, para. 73 (Fr) (First taken to *Camp de Roux* then to the OCRB in August).

⁹⁸⁵ **P-2105**: CAR-OTP-2078-0003-R01 at 0014, para. 64 (Fr).

⁹⁸⁶ **P-2105**: CAR-OTP-2078-0003-R01 at 0014, para. 66 (Fr); **P-0338**: CAR-OTP-2130-5761-R01 at 5780, paras. 53, 100-101 (Fr).

⁹⁸⁷ **P-2105**: CAR-OTP-2078-0003-R01 at 0014, para. 66 (Fr).

⁹⁸⁸ **P-2105**: CAR-OTP-2078-0003-R01 at 0014, para. 68 (Fr).

⁹⁸⁹ **P-0338**: CAR-OTP-2130-5761-R01 at 5775-5776, paras. 75-76 (Fr).

⁹⁹⁰ **P-0338**: CAR-OTP-2130-5761-R01 at 5775, para. 72 (Fr).

⁹⁹¹ *See supra*, paras. 164-171.

336. P-1167 states that **SAID**, **SALLET**, **DAMBOUCHA**, and **TAHIR** would run their own arrests independently from the rapid interventions, and bring in men to the OCB at night. These men were all Christian.⁹⁹² The auxiliary police officers were not involved in these arrests.
337. **SAID** detained men perceived as supporting **BOZIZE** in a small basement under his office in the OCB main building, without access to their families, review of their detention or adequate food and water. When **SAID** was not using his office inside the main building, no one else used it.⁹⁹³ **SAID's** office had a basement under his office.⁹⁹⁴
338. **SAID** controlled access to the basement which was situated under his personal office in the main building of the OCB and was known as the "hole".⁹⁹⁵ According to P-2105, **SAID** was the one who started using the basement after he arrived at the OCB.⁹⁹⁶ [REDACTED].⁹⁹⁷ P-2563 states that **SAID** controlled all the prisoners. According to him, the prisoners detained in the basement under his office were also under **SAID's** control.⁹⁹⁸

ii. Instructing OCB-Seleka to mistreat detainees who allegedly supported BOZIZE, including by using the *arbatachar* method⁹⁹⁹

339. **SAID** instructed his elements at the OCB to tie up the detainees in the *arbatachar* manner, [REDACTED].¹⁰⁰⁰ **SAID's** deputy YAYA tied P-0547 in the *arbatachar* way, hung him from the fork-posts of the OCB fence and interrogated him.¹⁰⁰¹
340. In addition, detainees were typically beaten upon arrival at the OCB in the main yard. **SAID**, **SALLET**, **TAHIR**, and **DAMBOUCHA** all ordered the OCB-Seleka elements to beat detainees and stayed to oversee the beatings. This usually involved making the prisoners lie down, throwing water over them and whipping them with leather straps

⁹⁹² **P-1167**: CAR-OTP-2127-7671-R01 at 7691, para. 110 (Fr).

⁹⁹³ **P-2563**: CAR-OTP-2130-4935-R01 at 4941, lns. 172-174 (Fr).

⁹⁹⁴ **P-2563**: CAR-OTP-2130-4911-R01 at 4914-4915, lns. 192-201 (Fr); **P-2478**: CAR-OTP-2110-0745-R02 at 0758, paras. 53-59 (Fr).

⁹⁹⁵ **P-2478**: CAR-OTP-2110-0745-R02 at 0758, para. 53 (Fr).

⁹⁹⁶ **P-2105**: CAR-OTP-2078-0003-R01 at 0017, para. 84 (Fr).

⁹⁹⁷ **P-2478**: CAR-OTP-2110-0745-R02 at 0758, para. 54 (Fr).

⁹⁹⁸ **P-2563**: CAR-OTP-2130-4911-R01 at 4927, lns. 490- 514 (Fr).

⁹⁹⁹ Confirmation Decision , para. 34 b).

¹⁰⁰⁰ **P-0338**: CAR-OTP-2130-5761-R01 at 5781, para. 105 (Fr).

¹⁰⁰¹ See *supra*, paras. 221-236.

afterwards.¹⁰⁰² This method was also applied to the detainees arrested on 4 July for having flyers critical of the Seleka in their possession.¹⁰⁰³

341. P-1737 states “everyone was aware that it was happening including Colonel **SAID** and General Nouredine [ADAM].”¹⁰⁰⁴

iii. Supplying the OCB-Seleka with weapons, food, vehicles, uniforms and ID cards¹⁰⁰⁵

342. Together with ADAM, **SAID** supplied the Seleka at the OCB with food, weapons, vehicles, uniforms and ID cards, and organised the Seleka at the OCB. According to P-0338, ADAM would come [REDACTED] to ensure the supplies, such as food, and to give **SAID** money.¹⁰⁰⁶ According to P-2105, **SAID** would organise everything at the OCB,¹⁰⁰⁷ and oversaw the day-to-day operations.¹⁰⁰⁸ Other witnesses corroborate that **SAID** was at the OCB daily, usually at a table with chairs under a tree within the compound at the OCB.¹⁰⁰⁹

iv. Interrogating detainees violently and supporting such interrogation methods by OCB-Seleka¹⁰¹⁰

343. **SAID** also conducted violent interrogations from his desk under the tree.¹⁰¹¹ P-0787 and P-2105 state that his deputy, TAHIR, and YAYA were usually present with **SAID** during the interrogations.¹⁰¹² P-3056 describes how **SAID** interrogated him and his co-detainees, including with a “mock execution”. **SAID** also hooded P-3056, handcuffed him and drove him around in a vehicle asking him whether he was a supporter of BOZIZE.¹⁰¹³

¹⁰⁰² **P-1167**: CAR-OTP-2127-7671-R01 at 7691, paras. 111-113 (Fr).

¹⁰⁰³ *See supra*, para. 173, 178, 179.

¹⁰⁰⁴ **P-1737**: CAR-OTP-2130-2086-R01 at 2098, para. 54 (Fr).

¹⁰⁰⁵ Confirmation Decision (Operative Part), para. 34 c).

¹⁰⁰⁶ **P-0338**: CAR-OTP-2130-5761-R01 at 5774, para. 68 (Fr); **P-1167**: CAR-OTP-2127-7671-R01 at 7687, para. 88 (Fr).

¹⁰⁰⁷ **P-2105**: CAR-OTP-2078-0003-R01 at 0015, para. 72 (Fr).

¹⁰⁰⁸ **P-2105**: CAR-OTP-2078-0003-R01 at 0015, paras. 70, 72 (Fr); **P-2563**: CAR-OTP-2130-4890-R01 at 4896, Ins. 169-171 (Fr).

¹⁰⁰⁹ **P-2563**: CAR-OTP-2130-4935-R01 at 4940, Ins. 116-118 (Fr); Annex: CAR-OTP-2114-0319; **P-0787**: CAR-OTP-2130-0893-R01 at 0902, para. 41 (Fr); **P-0478**: CAR-OTP-2110-0745-R02 at 0750, para. 22 (Fr); *see also* Annex I CAR-OTP-2110-0769.

¹⁰¹⁰ Confirmation Decision (Operative Part), para. 34(d).

¹⁰¹¹ **P-0787**: CAR-OTP-2130-0893-R01 at 0916, para. 98 (Fr); **P-1004**: CAR-OTP-2043-0536-R01 at 0541, para. 39 (Fr); **P-2105**: CAR-OTP-2078-0003-R01, at 0014, para. 64 (Fr).

¹⁰¹² **P-2105**: CAR-OTP-2081-0037-R01, at 0042, para. 26 (Fr); **P-2105**: CAR-OTP-2078-0003-R01, at 0019, para. 98 (Fr); **P-0787**: CAR-OTP-2130-0893-R01 at 0902, 0907, 0916, paras. 41, 57, 98 (Fr).

¹⁰¹³ **P-3056**: CAR-OTP-2130-6639-R01 at 6646-6647, paras. 41-44.

v. Overseeing the overall functioning of the OCRB detention centre, including giving instructions and orders to the police officers and deciding who gets access to the judiciary¹⁰¹⁴

344. During the detention of each individual, **SAID**, together with TAHIR and YAYA, oversaw the detentions as well as the detention conditions at the OCRB. He also organised the daily business of the OCRB and was responsible for securing the site.
345. **SAID** had his personal phone number painted on the side of his police vehicle.¹⁰¹⁵ **SAID** ensured that the OCRB Seleka were armed and ready for operations, in line with ADAM's instructions,¹⁰¹⁶ and ensured that ADAM's orders, including in relation to arrests, were implemented.¹⁰¹⁷ **SAID** distributed money given by ADAM to the OCRB Seleka,¹⁰¹⁸ including 2000 CFA for each time a Seleka element participated in a rapid intervention.¹⁰¹⁹ **SAID** also distributed weapons to the Seleka on guard duty¹⁰²⁰ and distributed uniforms that ADAM provided for the OCRB Seleka.¹⁰²¹ **SAID** issued orders at the OCRB, including in relation to prisoners he had arrested.¹⁰²² Together with TAHIR, he distributed food to the Seleka.¹⁰²³ Seleka based at the OCRB were also given identification cards signed by ADAM, with the code CMSAK, which stood for **SAID's** rank and initials.¹⁰²⁴ **SAID** distributed the cards.¹⁰²⁵
346. While he had an office in the main building, **SAID** also oversaw the operations from an improvised office in the yard of the OCRB, where he had placed a desk under a tree.¹⁰²⁶ In the mornings, **SAID** conducted an inspection, during which prisoners at the OCRB

¹⁰¹⁴ Confirmation Decision (Operative Part), para. 34(e).

¹⁰¹⁵ **P-1167**: CAR-OTP-2127-7671-R01 at 7688, para. 93 (Fr).

¹⁰¹⁶ **P-0338**: CAR-OTP-2130-5761-R01 at 5775, para. 71 (Fr).

¹⁰¹⁷ **P-2105**: CAR-OTP-2084-0191-R01 at 0204, para. 73 (Eng); **P-1167**: CAR-OTP-2127-7671-R01, at 7687, para. 89 (Fr); CAR-OTP-2094-0002-R01 at 0016, para. 89 (Eng).

¹⁰¹⁸ **P-0338**: CAR-OTP-2130-5761-R01 at 5774, para. 68 (Fr); **P-1167**: CAR-OTP-2127-7671-R01, at 7682, para. 59, 7687, para. 89 (Fr).

¹⁰¹⁹ **P-1167**: CAR-OTP-2127-7671-R01 at 7689, para. 59 (Fr).

¹⁰²⁰ **P-1167**: CAR-OTP-2127-7671-R01 at 7684, para. 70 (Fr).

¹⁰²¹ **P-1167**: CAR-OTP-2127-7671-R01 at 7687, para. 88 (Fr); **P-1004**: CAR-OTP-2130-1736-R01 at 1742, para. 35 (Fr).

¹⁰²² **P-1167**: CAR-OTP-2127-7671-R01 at 7688, para. 94 (Fr).

¹⁰²³ **P-2478**: CAR-OTP-2110-0745-R02 at 0749, para. 18 (Fr).

¹⁰²⁴ **P-1737**: CAR-OTP-2130-2086-R01 at 2096-2097, paras. 47-50 (Fr); *see also* Annexes at CAR-OTP-2055-0194 and CAR-OTP-2055-0195; **P-1167**: CAR-OTP-2127-7671-R01 at 7681, para. 52 (Fr).

¹⁰²⁵ **P-1737**: CAR-OTP-2130-2086-R01 at 2096, para. 47 (Fr).

¹⁰²⁶ **P-0787**: CAR-OTP-2130-0893-R01 at 0902, para. 41, at 0907, para. 57 (Fr). *See also* **P-2105**: CAR-OTP-2081-0037-R01 at 0042, para. 26 (Fr); CAR-OTP-2083-0003-R01 at 0009, para. 26 (Eng); **P-2563**: CAR-OTP-2118-2856-R01 at 2872, Ins. 526-528; CAR-OTP-2118-2897-R01 at 2901-2902, Ins. 105-150.

were brought out of their cells and questioned.¹⁰²⁷ **SAID**'s men were stationed inside the main building.¹⁰²⁸

347. P-0787, [REDACTED], explains that **SAID** also dictated what the career police officers should investigate and what was passed to the prosecutor.¹⁰²⁹ Although MAZANGUE, himself a career police officer, was officially appointed as Director of the OCB on 18 April 2013,¹⁰³⁰ and **SAID** was his deputy,¹⁰³¹ career police officers based at the OCB had to comply with **SAID**'s orders.¹⁰³² For example, P-1737 describes that [REDACTED] from the OCB would patrol in Boy Rabe but would not intervene to stop the looting by Seleka under the command of the Sudanese General YAYA at *Camp des Sapeurs-Pompier*s base.¹⁰³³
348. **SAID** took his own men on field operations and sometimes joined his forces with TAHIR's men in the field.¹⁰³⁴ Both would take the OCB intervention vehicles, which had their phone numbers written on them, so that they could be informed if they needed to deploy Seleka forces to the field.¹⁰³⁵ When the Seleka were entering information into the event notebook, **SAID** would check the content.¹⁰³⁶ These patrols and operations were part of the crime intervention policy established at the OCB through the Seleka.¹⁰³⁷
349. According to P-2105, **SAID** briefed ADAM about the operations he had conducted, including arrests. ADAM would then ask that certain prisoners be brought before him. **SAID** would bring out the prisoners and inform ADAM about their background.¹⁰³⁸ ADAM would question the prisoners to check their version of events against what **SAID** had said, and would ensure the people whose names he had given to **SAID** were in fact arrested.¹⁰³⁹

¹⁰²⁷ **P-2105**: CAR-OTP-2081-0037-R01 at 0039, para. 12 (Fr).

¹⁰²⁸ **P-2105**: CAR-OTP-2081-0037-R01 at 0009, para. 26 (Fr).

¹⁰²⁹ **P-0787**: CAR-OTP-2130-0893-R01 at 0902, para. 41 (Fr).

¹⁰³⁰ **CAR Government document**: CAR-OTP-2034-1740.

¹⁰³¹ **P-1737**: CAR-OTP-2130-2086-R01 at 2091, para. 24 (Fr).

¹⁰³² **P-0787**: CAR-OTP-2130-0893-R01 at 0902, para. 41 (Fr). *See also* **P-2105**: CAR-OTP-2084-0191-R01 at 0203, 0205, paras. 66, 68, 79 (Eng).

¹⁰³³ **P-1737**: CAR-OTP-2130-2086-R01 at 2093, para. 29 (Fr).

¹⁰³⁴ **P-2478**: CAR-OTP-2110-0745-R02 at 0749-0750, para. 20 (Fr).

¹⁰³⁵ **P-2478**: CAR-OTP-2110-0745-R02 at 0749-0750, para. 20 (Fr).

¹⁰³⁶ **P-2563**: CAR-OTP-2130-4890-R01 at 4897, lns. 177-193 (Fr).

¹⁰³⁷ **P-1737**: CAR-OTP-2130-2086-R01 at 2093, paras. 31-34 (Fr).

¹⁰³⁸ **P-2105**: CAR-OTP-2078-0003-R01 at 0015-0016, para. 73 (Fr).

¹⁰³⁹ **P-2105**: CAR-OTP-2078-0003-R01 at 0015-0016, para. 73 (Fr).

350. According to P-2240, **SAID** was in charge of detentions and would report to ADAM.¹⁰⁴⁰ When ADAM came to the OCRB, he would typically be briefed by **SAID**¹⁰⁴¹ or else speak to him by phone.¹⁰⁴² Seleka commanders could come and put people in the outside cells. When new prisoners were brought in, the commander would talk to **SAID** to decide where they would be put, or call him.¹⁰⁴³ [REDACTED] [REDACTED]¹⁰⁴⁴ [REDACTED].¹⁰⁴⁵ [REDACTED].¹⁰⁴⁶ OCRB Seleka always took part in the interrogation of prisoners on **SAID's** orders.¹⁰⁴⁷
351. The prisoners were checked every morning and brought out of the cells. **SAID** was always present, together with the duty officers, for this inspection. MAZANGUE would also be present and they would question the prisoners to check that their accounts were coherent with what was in the log-book.¹⁰⁴⁸
352. [REDACTED],¹⁰⁴⁹ [REDACTED].¹⁰⁵⁰ [REDACTED].¹⁰⁵¹ [REDACTED] [REDACTED].¹⁰⁵² [REDACTED].¹⁰⁵³
353. He received detainees from other detention centres such as the *Camp des Sapeurs-Pompier*s, which was run by the Sudanese Moussa ASSIMEH¹⁰⁵⁴, as well as *Camp de Roux*,¹⁰⁵⁵ which was the President's base.¹⁰⁵⁶

¹⁰⁴⁰ **P-2240**: CAR-OTP-2110-0780-R01 at 0789, para. 31-32 (Fr).

¹⁰⁴¹ **P-0338**: CAR-OTP-2130-5761-R01 at 5775, para. 73, at 5783, para. 120 (Fr); **P-1004**: CAR-OTP-2130-1736-R01 at 1742, para. 33 (Fr); **P-2105**: CAR-OTP-2078-0003-R01 at 0014-0015, para. 68, at 0015, para. 73 (Fr); **P-2161**: CAR-OTP-2127-9323-R01 at 9333, para. 51 (Fr); **P-2240**: CAR-OTP-2110-0780-R01, at 0790, para. 33 (Fr).

¹⁰⁴² **P-2240**: CAR-OTP-2110-0780-R01 at 0790, para. 33 (Fr).

¹⁰⁴³ **P-2563**: CAR-OTP-2130-4935-R01 at 4942, lns. 197-212 (Fr).

¹⁰⁴⁴ **P-2563**: CAR-OTP-2130-4911-R01 at 4923, lns. 377-379 (Fr).

¹⁰⁴⁵ **P-2563**: CAR-OTP-2130-4911-R01 at 4924, lns. 385-386 (Fr).

¹⁰⁴⁶ **P-2563**: CAR-OTP-2130-4935-R01 at 4932, lns. 358-383, 4945, lns. 321-324 (Fr).

¹⁰⁴⁷ **P-2105**: CAR-OTP-2078-0003-R01 at 0016, para. 79 (Fr).

¹⁰⁴⁸ **P-2105**: CAR-OTP-2081-0037-R01 at 0039, para. 12 (Fr).

¹⁰⁴⁹ **P-2161**: CAR-OTP-2127-9323-R01 at 9334, para. 55 (Fr).

¹⁰⁵⁰ **P-2161**: CAR-OTP-2127-9323-R01 at 9334, para. 56 (Fr).

¹⁰⁵¹ **P-2161**: CAR-OTP-2127-9323-R01 at 9334-9335, paras. 57, 60 (Fr).

¹⁰⁵² **P-2161**: CAR-OTP-2127-9323-R01 at 9334, para. 57 (Fr).

¹⁰⁵³ **P-2161**: CAR-OTP-2127-9323-R01 at 9334-9335, para. 58 (Fr).

¹⁰⁵⁴ **P-1420**: CAR-OTP-2130-1827-R01 at 1846, para. 101 (Fr); **P-1432**: CAR-OTP-2050-0172-R01 at 0176, paras. 27-29 (Eng); **P-1762**: CAR-OTP-2130-2147-R01 at 2154-2155, at 2157-2158, paras. 34-38, 47, 53 (Fr).

¹⁰⁵⁵ **P-1180**: CAR-OTP-2127-7599-R01 at 7622, paras. 152-153 (Fr); **P-2263**: CAR-OTP-2130-6271-R01 at 6281, para. 64 (Fr); CAR-OTP-2127-9708-R01 at 9712-9713, para. 17 (Fr); **P-2263**: CAR-OTP-2089-1229-R01 at 1238, para. 64 (Eng); CAR-OTP-2091-3074-R01 at 3077, para. 17 (Eng); See also Media Article: CAR-OTP-2088-2811 at 2813; UNFFM Report: CAR-OTP-2034-0270 at 0286, paras. 83-84.

¹⁰⁵⁶ **P-0547**: CAR-OTP-2018-0389-R01 at 0403, para. 100, at 0405, para. 111 (Fr); CAR-OTP-2078-0292-R01 at 0301, para. 42 (Fr).

d) OCRB-Seleka contributed essentially and jointly to the charged crimes

354. The OCRB-Seleka, who at the time were either under the control of **SAID** as the head of the OCRB-Seleka or otherwise cooperating with him in the commission of the crimes, made essential contributions within the framework of the common plan.

- ADAM interrogated detainees held at the OCRB.¹⁰⁵⁷
- TAHIR acted under **SAID** as his deputy and coordinated with **SAID** on the arrest and detention of persons as well as requesting ransom money from detainees.¹⁰⁵⁸
- In several instances, SALLET brought detainees to the OCRB perceived to be BOZIZE supporters.¹⁰⁵⁹
- RAKISS, ADAM and **SAID** jointly arrested and detained [REDACTED] perceived to support BOZIZE.¹⁰⁶⁰
- AL-BACHAR and Seleka elements arrested P-0547 and brought him to **SAID** at the OCRB.¹⁰⁶¹ TAHIR and YAYA took P-0547 to Camp de Roux. YAYA oversaw P-0547's detention and mistreated him.¹⁰⁶²
- YAYA followed **SAID**'s orders with regard to other detainees put in the underground cell.¹⁰⁶³
- NOIRO guarded the underground cell as one of **SAID**'s elements.¹⁰⁶⁴
- DAMBOUCHA was in contact regularly with **SAID** on arrests and detentions of persons at the OCRB.¹⁰⁶⁵ P-1167 says that he used to see **SAID**, along with SALLET, TAHIR and DAMBOUCHA, bring in groups of prisoners to the OCRB,¹⁰⁶⁶ that family members

¹⁰⁵⁷ See *supra*, paras. 138, 143, 150, 159, 182, 197, 220.

¹⁰⁵⁸ See *supra*, paras. 237, 227, 232.

¹⁰⁵⁹ See *supra*, paras. 137, 141, 256.

¹⁰⁶⁰ See *supra*, para. 220.

¹⁰⁶¹ See *supra*, para. 222.

¹⁰⁶² See *supra*, para. 227.

¹⁰⁶³ See *supra*, paras. 253-254.

¹⁰⁶⁴ **P-2105 (first statement):** CAR-OTP-2078-0003-R01 at 0017-0018, paras. 85, 87 (Fr); **P-2105 (second statement):** CAR-OTP-2081-0037-R01 at 0040, para. 17, at 0042, para. 25, at 0043, para.35 (Fr) **P-2563:** CAR-OTP-2118-2876-R01 at 2890-2891, 1.473-503, at 2892-2893, l. 553-586; **P-2563:** CAR-OTP-2118-2916-R01 at 2921, l. 139-145; **P-2563:** CAR-OTP-2118-3128-R01 at 3134-3135, l.202-208; **P-2563:** CAR-OTP-2118-9273-R01 at 9277, l. 123-132.

¹⁰⁶⁵ See *supra*, paras. 115, 126.

¹⁰⁶⁶ **P-1167:** CAR-OTP-2127-7671-R01 at 7691, para. 110 (Fr).

of prisoners and others would go inside the main house to speak with **SAID**, and that **SAID** used to receive ransom money in exchange for the release of prisoners.¹⁰⁶⁷

355. **SAID** also participated in and saw first-hand that detainees were severely mistreated. P-2105 says that **SAID**, TAHIR and YAYA were always present when the prisoners were being tortured.¹⁰⁶⁸ P-0787 mentions **SAID** and YAYA being present while Seleka were using violence against prisoners; he would ask questions to the prisoners, and he would casually call for the prisoners to be beaten if he was not satisfied with the responses.¹⁰⁶⁹ P-0547 saw **SAID** talking to RAKISS not far from the prison cells in August 2013.¹⁰⁷⁰
356. As outlined above in section B.2., the OCRB-Seleka elements under **SAID**'s command carried out the crimes charged in COUNTS 1 – 7. These elements – while not all identified by name – are described by the victims and insider witnesses, who are corroborated by additional evidence.

d) Intent and Knowledge

357. Based on his role and overall acts and conduct, including that he espoused the common plan and that he essentially contributed to the crimes within the framework of the common plan, the only reasonable inference is that **SAID** meant to engage in the conduct described above and intended to bring about the objective elements of crimes charged in Counts 1-7, or was aware that the implementation of the Common Plan would, in the ordinary course of events, result in the commission of the crimes charged in Counts 1-7. This can be reasonably inferred from the evidence regarding his role at the OCRB¹⁰⁷¹ as well as from his essential contributions as set out above.
358. **SAID** was aware that the Common Plan involved an element of criminality. **SAID** himself was not a trained police officer or gendarme,¹⁰⁷² and therefore knew that he was not qualified to take charge of a law enforcement institution such as the OCRB Central. He was further 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.

¹⁰⁶⁷ **P-1167**: CAR-OTP-2127-7671-R01 at 7694-7695, paras. 129, 132 (Fr).

¹⁰⁶⁸ **P-2105**: CAR-OTP-2078-0003-R01 at 0019, para. 98 (Fr).

¹⁰⁶⁹ **P-0787**: CAR-OTP-2130-0893-R01 at 0916, para. 98 (Fr).

¹⁰⁷⁰ **P-0547**: CAR-OTP-2018-0389-R01 at 0413, paras. 179-180 (Fr).

¹⁰⁷¹ See *supra*, paras. 111-114.

¹⁰⁷² **P-0338**: CAR-OTP-2068-0244-R01 at 0255, para.61 (Eng).

359. This is evidenced by the accounts of insider witnesses who place him at the OCRB at all times relevant to the charges.¹⁰⁷³ Prisoners arriving at the OCRB would be introduced to **SAID**, who was usually involved in the questioning of prisoners and the beatings and decided in which cell to put the prisoners.¹⁰⁷⁴ [REDACTED].¹⁰⁷⁵
360. [REDACTED].¹⁰⁷⁶ Overall, the OCRB is a small compound with its detention cells visible from the entrance and the main building. Anyone working there or even visiting would have full view of the above ground cells. Furthermore, **SAID** also used an office in the main building which had an underground cell covered with planks, which he and the co-perpetrators used for detainees as well.¹⁰⁷⁷

2. Article 25(3)(b): Ordering¹⁰⁷⁸

361. 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 1-7.¹⁰⁷⁹ The evidence shows that **SAID** instructed OCRB Seleka members to mistreat detainees for allegedly supporting BOZIZE or the Anti-Balaka, including on the orders of ADAM.¹⁰⁸⁰ **SAID** also referred to the *arbatachar* technique used on OCRB detainees as “the most effective to obtain confessions”.¹⁰⁸¹ He did not intervene to stop the mistreatment of detainees by OCRB Seleka members.¹⁰⁸²
362. **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 had no access to an independent review of their detention.¹⁰⁸³

¹⁰⁷³ **P-2563**: CAR-OTP-2130-4890-R01 at 4896-4897, lns. 166-181, at 4907, lns. 537-556 (Fr); See also **P-1167**: CAR-OTP-2094-0002-R01, at 0017, para. 93 (Eng).

¹⁰⁷⁴ **P-2563**: CAR-OTP-2130-4935-R01 at 4945, lns. 321-324, at 4946 lns. 342-345 (Fr).

¹⁰⁷⁵ **P-2161**: CAR-OTP-2127-9323-R01 at 9334-9335, paras. 57, 60 (Fr).

¹⁰⁷⁶ **P-2478**: CAR-OTP-2110-0745-R02 at 0754, para. 37 (Fr).

¹⁰⁷⁷ **P-0787**: CAR-OTP-2130-0893-R01 at 0907, para. 59 (Fr). See *supra*, paras. 114, 133, 226.

¹⁰⁷⁸ Confirmation Decision (Operative Part), paras. 37-38.

¹⁰⁷⁹ **SAID** can be held responsible only for those crimes committed by OCRB Seleka under the mode of liability of ordering and/or inducing under article 25(3)(b) where it is established beyond reasonable doubt that **SAID** ordered or otherwise instructed another person in any form to either commit a crimes, or to perform an act or omission in the execution of which a crimes is carried out; and where **SAID**'s order or act of inducement had a direct effect on the commission of the crimes. He cannot be held liable for comparable acts committed by ADAM under this mode of liability.

¹⁰⁸⁰ **P-0787**: CAR-OTP-2036-0410-R01 at 0431, para. 98 (Eng); **P-2105**: CAR-OTP-2078-0003-R01, at 0019, paras. 95, 98 (Fr); **P-1737**: CAR-OTP-2130-2086-R01 at 2098-2099, paras. 54, 58-59 (Fr).

¹⁰⁸¹ **P-0338**: CAR-OTP-2130-5761-R01 at 5781, para. 105 (Fr).

¹⁰⁸² **P-0338**: CAR-OTP-2130-5761-R01 at 5780-5781, paras. 102, 106 (Fr).

¹⁰⁸³ **P-2105**: CAR-OTP-2078-0003-R01 at 0017, para. 84 (Fr); **P-2478**: CAR-OTP-2110-0745-R02, at 0758, para. 53 (Fr).

363. **SAID** meant to engage in this conduct and was aware of his position of authority over the physical perpetrators of the crimes.¹⁰⁸⁴ **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.

3. *Article 25(3)(b): Inducing*¹⁰⁸⁵

364. In a further alternative, through the conduct described above at paragraphs 337 - 358 (essential contributions), **SAID** induced the OCRB-Seleka to commit the charged crimes. **SAID** exerted significant influence over the OCRB-Seleka, prompting them to commit the charged crimes.

365. In addition, the evidence shows that **SAID** and TAHIR provided incentives to OCRB-Seleka to detain persons arbitrarily at the OCRB by extorting the detainees or their families.¹⁰⁸⁶ P-1167 explains that he saw **SAID** receiving money on several occasions and the ransom money would range from amounts like 30,000 CFA for ordinary people to several millions.¹⁰⁸⁷ P-2478 explains that the OCRB was like a business for TAHIR and **SAID**.¹⁰⁸⁸

366. **SAID** meant to engage in the conduct described above. **SAID** meant for the OCRB-Seleka, including his deputy TAHIR, and 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.

¹⁰⁸⁴ This is demonstrated by the insider witnesses as well as some of the victims. *See supra*, paras. 165, 213, 254, 345.

¹⁰⁸⁵ Confirmation Decision (Operative Part), paras. 39-40.

¹⁰⁸⁶ **P-2400**: CAR-OTP-2130-4712-R01 at 4726, para. 60 (Fr); **P-2239**: CAR-OTP-2130-4729-R01 at 4749, para. 82; **P-2487**: CAR-OTP-2110-0745-R02 at 0750, para. 21 (Fr).

¹⁰⁸⁷ **P-1167**: CAR-OTP-2127-7671-R01 at 7695, para. 132 (Fr).

¹⁰⁸⁸ **P-2478**: CAR-OTP-2110-0745-R02 at 0750, para. 21 (Fr).

IV. CONCLUSION

367. The Prosecution submits that the above evidence that will be presented at trial establishes beyond reasonable doubt that **SAID** is criminally responsible for the crimes charged under Counts 1 to 7, as set out in the operative part of the Confirmation Decision.



Karim A. A. Khan QC, Prosecutor

Dated this 28th day of July 2022
At the Hague, The Netherlands