

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: **ICC-01/14-01/21**
Date: **8 December 2021**

PRE-TRIAL CHAMBER II

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

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

Public
with Public Annex A and Confidential Annexes B-D

Public Redacted Version of “Pre-Confirmation Brief”, ICC-01/14-01/21-155-Conf,
30 August 2021

Source: **Office of the Prosecutor**

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

The Office of the Prosecutor

Mr Karim A.A. Khan QC
Mr James Stewart
Mr Eric MacDonald

Counsel for Defence

Ms Jennifer Naouri
Mr Dov Jacobs

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparations

**The Office of Public Counsel
for Victims**

Ms Sarah Pellet
Ms Caroline Walter

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

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Unit

Detention Section

**Victims Participation
and Reparations Section**

Other

Contents

I. INTRODUCTION	4
II. CONTEXTUAL ELEMENTS OF WAR CRIMES AND CRIMES AGAINST HUMANITY	4
A. Contextual elements of article 8 (War crimes)	4
1. Existence of an armed conflict not of an international character	6
2. Nexus requirement	21
3. Knowledge requirement	21
B. Contextual elements of article 7 (Crimes against Humanity)	21
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	23
2. The Seleka attacked a civilian population	29
3. The Seleka acted pursuant to, and in furtherance of, a State or organisational policy	30
4. The acts charged as a crime against humanity were committed as part of a widespread and systematic attack directed against the civilian population	33
5. Knowledge requirement	36
III. INDIVIDUAL CRIMINAL RESPONSIBILITY	37
A. Overview of SAID's Role	37
1. SAID's Role at OCRB	37
2. SAID's Role at CEDAD	43
B. Charged Crimes at OCRB (Counts 1 – 7)	46
1. Overview	46
2. Incidents at OCRB	46
3. Legal Classification of the Material Facts	53
C. Individual Criminal Responsibility for Crimes at OCRB	73
1. Article 25(3)(a): Direct Co-Perpetration	73
2. Article 25(3)(b): Ordering	85
3. Article 25(3)(b): Inducing	86
4. Article 25(3)(c): Aiding, Abetting, or otherwise Assisting	86
5. Article 25(3)(d): Common purpose liability	87
D. Charged Crimes at CEDAD (Counts 8 - 14)	88
1. Overview	88
2. Incidents at CEDAD	89
3. Legal Classification of the Material Facts	94
E. Individual criminal responsibility for crimes at the CEDAD compound	107
1. Article 25(3)(c): Aiding, abetting or otherwise assisting	107
2. Article 25(3)(d): Common purpose liability	113

I. INTRODUCTION

1. Mahamat Said Abdel Kani (“**SAID**”) was born on 25 February 1970 in Bria, in the Central African Republic (“**CAR**”). He is a **CAR** national. Between March 2013 and at least January 2014 **SAID** was a senior member of the Seleka coalition.¹ After January 2014, he joined the armed group known as *FPRC* in **CAR** and was active in the diamond trade in Northern **CAR**.² This Pre-Confirmation Brief (“**PCB**”) sets out the evidence demonstrating that there are substantial grounds to believe that **SAID** committed the crimes contained in the Document Containing the Charges (“**DCC**”).³

II. CONTEXTUAL ELEMENTS OF WAR CRIMES AND CRIMES AGAINST HUMANITY

A. Contextual elements of article 8 (War crimes)

2. 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**.
3. This armed conflict involved a coalition of groups called the “Seleka” fighting against a group of forces aligned with a prominent politician, François BOZIZE.⁴ 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 long-time President of the **CAR**, having been in power since 2003.⁵ The Seleka coalition was united by their shared dissatisfaction with the existing BOZIZE-led government.⁶

¹ See Section III. A.

² **UNSC Report**: [CAR-OTP-2001-7017](#) at 7129; [CAR-OTP-2001-5739](#) at 5751, 5766-5771.

³ See ICC-01/14-01/21-144-Conf+Conf-Anxs.

⁴ See *infra*, paras. 9, 13-16.

⁵ **P-1420**: [CAR-OTP-2040-0811-R01](#) at 0813, para. 14; **P-1732**: [CAR-OTP-2091-2110-R01](#) at 2114, para. 17; **OHCHR**: [CAR-OTP-2034-0270](#) at 0271, para. 5; **HRW Report**: [CAR-OTP-2001-1870](#) at 1910.

⁶ **P-2625**: [CAR-OTP-2123-0377-R01](#) at 0381-0382, paras. 22-31 (Fr); **P-0776**: [CAR-OTP-2122-2803-R01](#) at 2818, 2841-2842 (Fr); **P-0291**: [CAR-OTP-2024-0036-R01](#) at 0041, 0044-0045, paras. 22-26, 50-51 (Fr); **P-0413**: [CAR-OTP-2013-0420-R01](#) at 0434, paras. 100-101 (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.

4. In late 2012,⁷ the Seleka launched a military offensive in northern CAR, occupying towns and advancing southward towards Bangui, the capital of CAR.⁸ During this period, the Seleka regularly clashed with forces loyal to then-President BOZIZE, including the CAR military, the *Forces Armées Centrafricaines* (“FACA”).⁹ The fighting was sufficiently intense that the international community became involved in brokering a ceasefire agreement between the Seleka and the CAR government, which was signed on 11 January 2013,¹⁰ and sent forces to help enforce that ceasefire.¹¹
5. 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,¹² and installed their leader Michel DJOTODIA¹³ as the new President.¹⁴
6. 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.¹⁵ Meanwhile, from exile 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.”

⁷ **P-0413:** [CAR-OTP-2013-0420-R01](#) at 0434, para. 100 (Fr); **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).

⁸ *See, e.g.*, **P-1732:** [CAR-OTP-2091-2110-R01](#) at 2116-2117, para. 34 (Eng); **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-1958:** [CAR-OTP-2104-1053-R01](#) at 1058, para. 24 (Fr); **P-0413:** [CAR-OTP-2013-0420-R01](#) at 0434-0435, paras. 102-104 (Fr); **FIDH Report:** [CAR-OTP-2001-2890](#) at 2898-2899; **IPIS Report:** [CAR-OTP-2001-5739](#) at 5759, 5764.

⁹ **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).

¹⁰ **OHCHR interim report:** [CAR-OTP-2001-0172](#) at 0176.

¹¹ **P-2027:** [CAR-OTP-2118-0965-R01](#) at 0970, para. 25 (Fr); [CAR-OTP-2078-0059-R01](#) at 0062, para. 25 (Eng).

¹² *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).

¹³ **P-1420:** [CAR-OTP-2130-1827-R01](#) at 1837, para. 49 (Fr); [CAR-OTP-2040-0811-R01](#) at 0820, para. 49 (Eng); **P-0776:** [CAR-OTP-2122-2803-R01](#) at 2843, ln. 1576 (Fr); [CAR-OTP-2122-3152-R01](#) at 3190, ln. 1463 (Eng).

¹⁴ **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.

¹⁵ *See infra*, paras. 10-12, 36-38, 41-46.

7. 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.¹⁶ On 10 January 2014, facing intense international pressure due to the intensifying armed conflict,¹⁷ President DJOTODIA resigned, and the Seleka were forced to retreat.¹⁸

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

8. 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.¹⁹ 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.²⁰
9. 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.
10. 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

¹⁶ **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.

¹⁷ See, e.g., **P-1420:** [CAR-OTP-2130-1827-R01](#) at 1854-1855, para. 151 (Fr); **P-1521:** [CAR-OTP-2102-0131-R01](#) at 0143-0144, paras. 61-64 (Fr); **P-1521:** [CAR-OTP-2046-0603-R01](#) at 0613, paras. 61-64 (Eng).

¹⁸ **P-1420:** [CAR-OTP-2130-1827-R01](#) at 1854-1855, paras. 151-152 (Fr); **SC Resolution:** [CAR-OTP-2001-0409](#) at 0410-0411, paras. 8-9; **Media Article:** [CAR-OTP-2001-4199](#); **IPIS Report:** [CAR-OTP-2001-5739](#) at 5789.

¹⁹ 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.

²⁰ 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. 535-536; *Ntaganda TJ*, para. 703; *Prosecutor v. Limaj et al.*, Judgment, IT-03-66-T, 30 Nov. 2005 (“Limaj 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.

and flow of a conflict, and do not imply its premature end.²¹ 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 reached²² — that is to say, the complete victory of a party to the conflict (*debellatio*)²³ or a “lasting absence of armed confrontations” between the parties,²⁴ with or without “the conclusion or unilateral pronouncement of a formal act such as a ceasefire, armistice or peace agreement,”²⁵ but in any event “without real risk of resumption.”²⁶

11. 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.²⁷ Associated changes in the formal designation of the armed forces belonging to a party to the conflict are not necessarily of legal significance;²⁸ nor even a tactical 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

²¹ 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.

²² See, e.g., ICTY, *Prosecutor v. Tadić*, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, IT-94-1-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.

²³ 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.

²⁴ ICRC, *Commentary on GCI* (2016), para. 494. See also ICRC *Challenges Report*, pp. 10-11.

²⁵ ICRC, *Commentary on GCI* (2016), para. 491.

²⁶ ICRC, *Commentary on GCI* (2016), para. 491. See also ICRC *Challenges Report*, p. 11.

²⁷ See e.g. *Brima* TJ, paras. 251-253.

²⁸ ICTY, *Prosecutor v. Delalić et al.*, Judgment, IT-96-21-T, 16 November 1998 (“*Delalić* TJ”), paras. 226-227 (*mutatis mutandis*).

capability and resolve to maintain the hostilities, and that it actually does so,²⁹ 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.

12. 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.³⁰ 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. The Commission's view does not bind the Court.³¹

a) Parties to the conflict

aa) Seleka

13. 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,³² (2) the *Convention des Patriotes pour la Justice et la Paix-*

²⁹ 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.

³⁰ See **UNCOI Report: CAR-OTP-2001-7017** at 7033, 7050-7052, paras. 39, 93-97.

³¹ 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.

³² See **P-0413: CAR-OTP-2013-0420-R01** at 0435, para. 110 (Fr); **P-0776: CAR-OTP-2122-2803-R01** at 2837, lns. 941-944; 2829, lns. 1040-1047; 2842-2843 (Fr); **P-0234: CAR-OTP-2005-5407-R01** at 5415, para. 68 (Fr); **HRW Report: CAR-OTP-2001-1870** at 1907, 1911; **P-1732: CAR-OTP-2091-0381-R01** at 0387, para. 37 (Fr); **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-R01**, at 0113, para. 51 (Eng); **FIDH Report: CAR-OTP-2001-2890** at 2898.

Fondamentale (“CPJP-F”), led by Nourredine ADAM;³³ and (3) the *Convention Patriotique pour le Salut du Kodro* (“CPSK”), led by Mohamed Moussa DHAFFANE.³⁴ The Seleka were also supported by Chadian and Sudanese mercenaries.³⁵

14. 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 DHAFFANE became government ministers.³⁶ 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.³⁷

bb) Pro-BOZIZE Forces

15. 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 Guards³⁸ and, increasingly as the year progressed, pre-existing and new self-defence groups that were armed, organised and instructed by the pro-BOZIZE forces.³⁹ Among these pre-existing self-defence groups were the “Anti-Zaraguina,”⁴⁰ 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

³³ **P-1732:** [CAR-OTP-2091-0381-R01](#) at 0385, 0387, paras. 25, 27, 37 (Fr); **P-0413:** [CAR-OTP-2013-0420-R01](#) at 0428-0435, paras. 51, 79, 86-88, 96-97, 100-110 (Fr); **P-0291:** [CAR-OTP-2024-0036-R01](#) at 0044-0045, para. 51 (Fr); **FIDH Report:** [CAR-OTP-2001-2890](#) at 2897-2898.

³⁴ **P-1732:** [CAR-OTP-2091-0381-R01](#) at 0387, para. 37 (Fr); **P-0413:** [CAR-OTP-2013-0420-R01](#) at 0433-0434, paras. 95, 100 (Fr); **Seleka declaration:** [CAR-OTP-2088-2868](#) at 2869; **IPIS report:** [CAR-OTP-2001-5739](#) at 5753.

³⁵ **P-1420:** [CAR-OTP-2130-1827-R01](#), at 1830, para. 15 (Fr); **P-0881:** [CAR-OTP-2130-5262-R01](#) at 5268, para. 32 (Fr); **P-1732:** [CAR-OTP-2091-0381-R01](#) at 0386, para. 32 (Fr); **P-1164:** [CAR-OTP-2130-1767-R01](#) at 1785, 1791, 1793-1794, paras. 113, 150, 167, 173 (Fr).

³⁶ **P-0291:** [CAR-OTP-2024-0036-R01](#) at 0052-0053, paras. 101-106 (Fr); **P-0776:** [CAR-OTP-2122-3027-R01](#) at 3122, Ins. 3730-3733 (Fr); **P-0776:** [CAR-OTP-2122-3368-R01](#) at 3461, Ins. 3586-3589 (Eng); **P-0234:** [CAR-OTP-2005-5407-R01](#) at 5418, para. 94 (Fr); **P-2328:** [CAR-OTP-2099-0165-R01](#) at 0216, para. 266 (Fr).

³⁷ See *infra*, para. 21.

³⁸ **P-1521:** [CAR-OTP-2102-0131-R01](#) at 0135, para. 18 (Fr); **P-1420:** [CAR-OTP-2130-1827-R01](#) at 1841-1842, paras. 75-78 (Fr).

³⁹ See *infra*, para. 28-40; **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); **P-2841:** [CAR-OTP-2130-1538-R01](#) at 1546, 1558-1561, 1565, 1575-1576, paras. 35, 37, 109, 117, 119, 140-141, 193-196 (Fr); **P-1732:** [CAR-OTP-2091-0381-R01](#) at 0409, para. 173 (Fr).

⁴⁰ **P-2841:** [CAR-OTP-2130-1538-R01](#) at 1550-1551, 1552, paras. 60, 68-69 (Fr); **P-0965:** [CAR-OTP-2046-0134-R01](#) at 0138, ln. 126-133 (Fr); **P-2027:** [CAR-OTP-2118-0965-R01](#) at 0992-0993, paras. 145-147 (Fr). See also **P-0966:** [CAR-OTP-2102-0078-R01](#) at 0083-0084, para. 22 (Fr).

resisting the Seleka's advance.⁴¹ All these persons and groups ultimately came to be known as the "Anti-Balaka."⁴² Anti-Balaka stands for "anti-machete" in the Sango language or "anti-bal-AK47," meaning against the bullets of an AK-47.⁴³

16. Leaders of the pro-BOZIZE forces included François BOZIZE, Levy YAKETE, Patrice-Edouard NGAISSONA, Bernard MOKOM, Maxime MOKOM, and Olivier KOUDEMON.⁴⁴ They prepared a response against the Seleka offensive and coordinated to remove the Seleka's grip on power throughout the relevant timeframe.⁴⁵

b) The parties to the conflict were sufficiently organised

aa) The Seleka were sufficiently organised

17. 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.⁴⁶ 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.

⁴¹ **P-0568:** [CAR-OTP-2045-1151-R01](#) at 1163-1164, 1167-1168, Ins. 422-483, 584-643 (Fr); **P-2232:** [CAR-OTP-2107-6459-R01](#) at 6462-6463, paras. 7-10 (Fr); **P-0808:** [CAR-OTP-2102-0045-R01](#) at 0073, paras. 152-153 (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* **P-2625:** [CAR-OTP-2123-0377-R01](#), at 0384, 0388-0389, para. 39-40, 64-68 (Fr); **UNSC Resolution:** [CAR-OTP-2001-6251](#) at 6293, para. 3; **P-0568:** [CAR-OTP-2045-1151-R01](#) at 1154, Ins. 87-96 (Fr); **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).

⁴² **P-2232:** [CAR-OTP-2107-6147-R01](#) at 6155-6156, paras. 51, 53 (Fr).

⁴³ **P-0966:** [CAR-OTP-2102-0078-R01](#) at 0083-0084, para. 22 (Fr); **FIDH Report:** [CAR-OTP-2001-2769](#) at 2825.

⁴⁴ **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-1719:** [CAR-OTP-2107-1605-R01](#) at 1610, paras. 25-26 (Fr); **P-0884:** [CAR-OTP-2080-1678-R01](#) at 1707, Ins. 985-1012 (Fr).

⁴⁵ *See infra*, paras. 27-40.

⁴⁶ On the factors relevant to this analysis, *see, e.g., 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 Wilmschurst, 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.

(i) The Seleka were able to conduct military operations

18. Although the Seleka did not have a strictly centralised chain of command,⁴⁷ they used military ranks to organise their members⁴⁸ and coordinated their various sub-sections in an effective way that allowed them to achieve significant military victories. 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.⁴⁹
19. The March 2013 takeover of Bangui was carefully planned by senior Seleka commanders, including DJOTODIA, ADAM, and DHAFFANE,⁵⁰ who met together to design the operation.⁵¹ These senior Seleka commanders passed down orders to their troops in advance of the operation⁵² and communicated via satellite during the assault.⁵³ Ultimately, the Seleka's successful coordination of multiple units under multiple commanders⁵⁴ 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.⁵⁵

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

20. 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

⁴⁷ 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).

⁴⁸ *See, e.g.*, **P-0776**: [CAR-OTP-2122-3152-R01](#) at 3171, 3178, lns. 681-689, 969-977 (Eng); **P-1167**: [CAR-OTP-2127-7671-R01](#) at 7677, para. 29 (Fr); **P-0881**: [CAR-OTP-2130-5262-R01](#) at 5268, para. 32 (Fr).

⁴⁹ **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-0776**: [CAR-OTP-2122-3152-R01](#) at 3178, ln. 1015 (Eng); **P-0776**: [CAR-OTP-2122-3230-R01](#) at 3242, 3255, 3259, 3265 (Eng); **P-0776**: [CAR-OTP-2122-3027-R01](#) at 3041-3042 (Fr); **P-0881**: [CAR-OTP-2032-0682-R01](#) at 0687-0688, para. 32 (Eng); **P-0510**: [CAR-OTP-2017-0835-R01](#) at 0838, paras. 14-15 (Eng).

⁵⁰ **P-0776**: [CAR-OTP-2122-3368-R01](#) at 3371-3372, 3431, 3433 (Eng).

⁵¹ **P-1167**: [CAR-OTP-2094-0002-R01](#) at 0006, paras. 27-29.

⁵² **P-0776**: [CAR-OTP-2122-3368-R01](#) at 3372-3374, 3382 (Eng); **P-1167**: [CAR-OTP-2094-0002-R01](#) at 0006, paras. 27-29.

⁵³ **P-0776**: [CAR-OTP-2122-3368-R01](#) at 3446-3448 (Eng); **P-1167**: [CAR-OTP-2094-0002-R01](#) at 0007, para. 35 (Eng).

⁵⁴ **P-1167**: [CAR-OTP-2094-0002-R01](#) at 0007-0008, paras. 31-41 (Eng).

⁵⁵ **P-0776**: [CAR-OTP-2122-3368-R01](#) at 3433-3434 (Eng); **P-1167**: [CAR-OTP-2127-7671-R01](#) at 7677, para. 33 (Fr); **P-2027**: [CAR-OTP-2118-0965-R01](#) at 0970, para. 27 (Fr).

members to key government posts through official decrees.⁵⁶ DJOTODIA also issued a decree creating a National Security Council,⁵⁷ whose members included ADAM, which met weekly to discuss national and local security matters.⁵⁸

21. 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 Démocratiques* (Extraordinary Committee for the Defence of Democratic Achievements, “CEDAD”).⁵⁹
22. 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, Seleka commanders — including SAID — collaborated to arrest suspected BOZIZE supporters and regularly transferred prisoners between the Seleka’s numerous detention facilities.⁶⁰

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

23. From late 2012, the Seleka coalition began seizing control of towns in the CAR.⁶¹ By 24 March 2013, they had taken control of Bangui as well as other critical CAR territory.⁶²

⁵⁶ **CAR Presidential Decrees 13.001 – 13.009:** [CAR-OTP-2004-1597](#) at 1605-1607.

⁵⁷ **Presidential Decree 13.185:** [CAR-OTP-2005-0380](#).

⁵⁸ **P-1164:** [CAR-OTP-2130-1767-R01](#) at 1796, para. 185 (Fr); **P-0887:** [CAR-OTP-2130-1686-R01](#) at 1693, paras. 37-39 (Fr).

⁵⁹ Other bases included: Camp BSS, headed by General ALKHATIM (see **P-1420:** [CAR-OTP-2130-1827-R01](#) at 1839-1840, paras. 60-61 (Fr)); *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-2130-1827-R01](#) at 1833, paras. 28-29 (Fr); **P-1282:** [CAR-OTP-2127-7583-R01](#) at 7590, para. 49 (Fr)); *Camp de Roux*, commanded by DJOTODIA (see **P-1399:** [CAR-OTP-2130-1948-R01](#) at 1955-1956, paras. 35-41 (Fr)); Camp Kassai, where Abdoulaye HISSENE was stationed (**P-1289:** [CAR-OTP-2127-7632-R01](#) at 7637, para. 23 (Fr)); *Sapeurs-Pompiers*, headed by a Sudanese General, Moussa ASSIMEH (see **P-1762:** [CAR-OTP-2130-2147-R01](#) at 2154-2155, paras. 31-38 (Fr); **P-1521:** [CAR-OTP-2102-0131-R01](#) at 0136, para. 24 (Fr); **P-1420:** [CAR-OTP-2130-1827-R01](#) at 1846, para. 101 (Fr)); *Maison Blanche*, headed by Mahamat KAIR (see **P-0950:** [CAR-OTP-2130-1643-R01](#) at 1647, paras. 23-28 (Fr); **P-2305:** [CAR-OTP-2130-3228-R01](#) at 3233-3235, paras. 26-29, 34 (Fr)).

⁶⁰ See DCC, paras. 33.d, 33.f, 33.i-33.j, 33.p-33.s (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, Ins. 50-76 (Fr).

⁶¹ **P-1263:** [CAR-OTP-2054-0616-R01](#) at 0620, paras. 16-20 (Eng); **P-0776:** [CAR-OTP-2122-3152-R01](#) at 3176, Ins. 886-887, at 3178, ln. 1012 (Eng); **P-0776:** [CAR-OTP-2122-3230-R01](#) at 3269, 3284 (Eng).

⁶² **P-0342:** [CAR-OTP-2116-0216-R01](#) at 0252-0253, paras. 216-217, 226 (Eng); **HRW Report:** [CAR-OTP-2001-1870](#) at 1883, 1888.

24. 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.⁶³ The Seleka set up a system of check-points to monitor and control the movement of people within the territory they controlled.⁶⁴ They divided the country into military regions and put different Seleka Generals in charge of different regions, including Kaga-Bandoro, Bambari, and Paoua.⁶⁵

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

25. 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.⁶⁶ By late 2013, the Seleka reportedly had 15,000-20,000 members.⁶⁷ The Seleka also took steps to train and organise their members.⁶⁸

26. In addition, the Seleka successfully conducted other logistical operations. For example, they established a system of food distribution across the bases;⁶⁹ arranged uniforms for their elements, including the Seleka posted at the OCRB;⁷⁰ and issued ID cards to their personnel.⁷¹

⁶³ **P-2328**: [CAR-OTP-2099-0165-R01](#) at 0190, para. 128 (Fr).

⁶⁴ **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](#).

⁶⁵ **P-2328**: [CAR-OTP-2099-0165-R01](#) at 0216-0217, para. 267 (Fr).

⁶⁶ **P-0413**: [CAR-OTP-2019-3348-R01](#) at 3380, para. 251 (Eng); **P-0776**: [CAR-OTP-2122-3027-R01](#) at 3108, ln. 3171 (Fr); **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).

⁶⁷ **P-0413**: [CAR-OTP-2013-0420-R01](#) at 0480, para. 482 (Fr); **UN SG Report**: [CAR-OTP-2001-1102](#) at 1103, para. 5; **FIDH Report**: [CAR-OTP-2001-2890](#) at 2905.

⁶⁸ **P-1172**: [CAR-OTP-2046-1003-R01](#) at 1005, paras. 18-19; **P-1164**: [CAR-OTP-2130-1767-R01](#) at 1790, para. 146 (Fr); **P-1399**: [CAR-OTP-2130-1948-R01](#) at 1968-1971, paras. 118-130 (Fr); **P-0435**: [CAR-OTP-2104-0954-R01](#) at 0982, para. 152 (Fr).

⁶⁹ **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).

⁷⁰ **P-1167**: [CAR-OTP-2127-7671-R01](#) at 7687, para. 88 (Fr).

⁷¹ **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); **P-1167** Annex. A: [CAR-OTP-2094-1899-R01](#) and [CAR-OTP-2094-1898](#); **P-0760**: [CAR-OTP-2130-0792-R01](#) at 0803, para. 61 (Fr); **P-0789**: [CAR-OTP-2130-0820-R01](#) at 0826, para. 32 (Fr).

bb) The pro-BOZIZE forces were sufficiently organised

27. 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.⁷²
28. 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).⁷³ Other FACA elements and BOZIZE loyalists withdrew to Zongo in the DRC, across the river from Bangui.⁷⁴ Whatever the precise legal classification of these FACA elements,⁷⁵ they represented part of the *same forces* that had been subject to BOZIZE’s control before he was ousted.⁷⁶ 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.
29. 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.⁷⁷ While the Anti-Balaka was organised, as an insurgency rather than a security force, it provided considerable additional combat

⁷² See e.g. *Haradinaj* TJ, para. 60. See also Sivakumaran, p. 170.

⁷³ **B2 Report of 6 Jul. 2013:** [CAR-OTP-2075-0908](#); **B2 Report of 1 Aug. 2013:** [CAR-OTP-2075-0933](#).

⁷⁴ **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](#).

⁷⁵ 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 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”).

⁷⁶ 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”).

⁷⁷ See also e.g. *Yekatom and Ngaïssona* Confirmation Decision, paras. 62, 111.

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.⁷⁸

30. 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.⁷⁹ Such an approach would create a lacuna in protection for the victims of the charged crimes. The conflict continued because the Seleka did not consider that the takeover of Bangui had eliminated the threat from BOZIZE and his supporters.
31. 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 2013,⁸⁰ 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

32. 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.

⁷⁸ See *infra*, paras. 36-38, 45-46.

⁷⁹ 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”).

⁸⁰ 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”).

33. 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-existing⁸¹ and new self-defence groups.⁸² 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.⁸³ Members were trained, including by former FACA.⁸⁴
34. For example, pro-BOZIZE forces organised the various self-defence groups who had gathered in Gobre (near Bossangoa).⁸⁵ In this location, (i) the men were organised into companies,⁸⁶ each containing hundreds of members,⁸⁷ which were further divided into sections;⁸⁸ (ii) new recruits were registered and assigned to a company;⁸⁹ (iii) a command structure was set up, with Maxime MOKOM as coordinator of operations;⁹⁰ (iv) recruits

⁸¹ **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-0776:** [CAR-OTP-2122-3318-R01](#) at 3350-3351, lns. 1236-1240 (Eng); **P-0776:** [CAR-OTP-2122-3368-R01](#) at 3453, lns. 3274-3276 (Eng); **P-2232:** [CAR-OTP-2107-6459-R01](#) at 6476, paras. 78-79 (Fr).

⁸² **P-0889:** [CAR-OTP-2027-2290-R01](#) at 2292-2296 (Fr); **P-0966:** [CAR-OTP-2031-0241-R01](#) at 0245-0246, paras. 23-25, 28 (Eng); **P-0844:** [CAR-OTP-2080-1678-R01](#) at 1699-1700, lns. 699-747; **P-0234:** [CAR-OTP-2013-0403-R01](#) at 0413, para. 70 (Eng); **P-2027:** [CAR-OTP-2078-0059-R01](#) at 0075-0077, paras. 93, 100-105 (Eng); **FIDH Report:** [CAR-OTP-2001-2769](#) at 2825-2827; **IPIS Report:** [CAR-OTP-2001-5739](#) at 5782; **UN CoE Report:** [CAR-OTP-2001-7017](#) at 7068-7087, paras. 281-285.

⁸³ **P-2328:** [CAR-OTP-2099-0165-R01](#) at 0176-0178, 0183, paras. 60-61, 65-66, 93.

⁸⁴ 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).

⁸⁵ **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-1521:** [CAR-OTP-2046-0603-R01](#) at 0608, paras. 30-31 (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).

⁸⁶ **P-0966:** [CAR-OTP-2031-0241-R01](#) at 0246, para. 29 (Eng); **P-1521:** [CAR-OTP-2046-0603-R01](#), at 0608-0609, para. 34 (Eng).

⁸⁷ **P-0966:** [CAR-OTP-2031-0241-R01](#) at 0246, para. 29 (Eng); **P-1339:** [CAR-OTP-2041-0802](#) (list of Anti-Balaka from “Gobre 2”).

⁸⁸ **P-0966:** [CAR-OTP-2031-0241-R01](#) at 0246, 0248, para. 39 (Eng); **P-1521:** [CAR-OTP-2046-0603-R01](#), at 0608, para. 34 (Eng).

P-0975: [CAR-OTP-2033-7885-R01](#) at 7889, para. 29 (Eng).

⁸⁹ **P-0966:** [CAR-OTP-2102-0078-R01](#) at 0085, 0087, paras. 29, 38 (Fr).

⁹⁰ **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); **P-1521:** [CAR-OTP-2102-0131-R01](#) at 0140, para. 43 (Fr); **P-0889:** [CAR-OTP-2027-2290-R01](#) at 2295-2296, paras. 31-35 (Fr); **P-2027:** [CAR-OTP-2118-0965-R01](#) at 0983, para. 93 (Fr); see also **P-0568:** [CAR-OTP-2045-1251-R01](#) at 1255, lns. 157-158 (Fr).

received training from former FACA members;⁹¹ and (v) recruits were provided with fetishes, known as *grisgris*.⁹²

35. Similarly, in another location — Kalangoi, DRC — pro-BOZIZE forces gathered together people who wanted to fight the Seleka.⁹³ They established a military hierarchy whereby (i) the men were organised into sections, each containing 60 members;⁹⁴ (ii) new members were recruited and assigned to a section;⁹⁵ (iii) a command structure was set up, with Alfred YEKATOM as the chief, who in turn coordinated closely with Maxime MOKOM;⁹⁶ (iv) members received training for three months from former FACA members, including YEKATOM;⁹⁷ and (v) members were provided with weapons.⁹⁸

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

36. 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.
37. 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 2013.⁹⁹ From September, the Anti-

⁹¹ **P-0975:** [CAR-OTP-2033-7885-R01](#) at 7889, paras. 26-29 (Eng).

⁹² **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); *see also* **P-0889:** [CAR-OTP-2027-2290-R01](#) at 2295, para. 30 (Fr).

⁹³ **P-1339:** [CAR-OTP-2102-0105-R01](#) at 0112, para. 32 (Fr).

⁹⁴ **P-1339:** [CAR-OTP-2041-0741-R01](#) at 0750, paras. 63-64 (Eng).

⁹⁵ **P-1339:** [CAR-OTP-2041-0741-R01](#) at 0746, 0750, paras. 35, 63 (Eng); **P-0884:** [CAR-OTP-2072-1479-R01](#) at 1514-1515, Ins. 1271-1314 (Fr/Eng).

⁹⁶ **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, Ins. 22-27.

⁹⁷ **P-1339:** [CAR-OTP-2102-0105-R01](#) at 0112-0113, paras. 34, 37-39 (Fr); **P-0976:** [CAR-OTP-2056-0031-R01](#) at 0035, paras. 25-26 (Eng).

⁹⁸ **P-1339:** [CAR-OTP-2041-0741-R01](#) at 0750, para. 66 (Eng).

⁹⁹ **P-1167:** [CAR-OTP-2127-7671-R01](#) at 7700, para. 163 (Fr). 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

Balaka began progressively to take control of territory outside Bangui, attacking village by village.¹⁰⁰

38. The Anti-Balaka's attacks in the autumn culminated in a large-scale assault on Bangui on 5 December 2013,¹⁰¹ which was planned and coordinated.¹⁰² During this assault, the Anti-Balaka — as the group was by then known — made use of heavy weaponry, launching rockets and grenades into Bangui.¹⁰³

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

39. Even in the face of the impending takeover of Bangui, many of the pro-BOZIZE forces, including FACA and Presidential Guard members, remained organised enough to retreat in whole units or sub-units. Notably, they managed to transport weapons out of Bangui to the provinces or border regions.¹⁰⁴
40. 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.¹⁰⁵

c) The hostilities were sufficiently intense

41. 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

inauguration, dated 18 August 2013); **Media article:** [CAR-OTP-2050-0989](#); **P-1277:** [CAR-OTP-2051-0966-R01](#) at 0971, para. 21 (Eng).

¹⁰⁰ **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); **P-2841:** [CAR-OTP-2127-4238-R01](#) at 4250, 4268, paras. 71, 169 (Eng); **P-2027:** [CAR-OTP-2118-0965-R01](#) at 0985, para. 105 (Fr).

¹⁰¹ **P-1339:** [CAR-OTP-2041-0741-R01](#) at 0750-0751, paras. 70-79 (Eng); **P-1521, Annex B:** [CAR-OTP-2046-0629](#); **P-1297:** [CAR-OTP-2039-0167-R01](#) at 0176-0177, paras. 61-66 (Eng).

¹⁰² **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, 0182, paras. 75, 87-89 (Fr); **P-0568:** [CAR-OTP-2045-1251-R01](#) at 1256-1260, Ins. 170-359 (Fr); **P-0568:** [CAR-OTP-2045-1266-R01](#) at 1267-1275, Ins. 11-336 (Fr); **P-1339:** [CAR-OTP-2102-0105-R01](#) at 0117-0120, paras. 60-80 (Fr); **P-0975:** [CAR-OTP-2107-1329-R01](#) at 1336, paras. 37-40 (Fr); **P-0965:** [CAR-OTP-2046-0055-R01](#) at 0062-0065, Ins. 232-371, at 0070, ln. 528 (Fr); **P-0889:** [CAR-OTP-2027-2290-R01](#) at 2297-2298, paras. 38-48 (Fr).

¹⁰³ **P-0100:** [CAR-OTP-2118-6331-R01](#) at 6358, para. 139 (Fr).

¹⁰⁴ **P-0568:** [CAR-OTP-2045-1211-R01](#) at 1228-1229, Ins. 605-642 (Fr); **P-0568:** [CAR-OTP-2045-1231-R01](#) at 1237-1239, Ins. 198-269 (Fr); **P-2328:** [CAR-OTP-2099-0165-R01](#) at 0173-0174, paras. 45, 48-49 (Fr).

¹⁰⁵ **P-0808, Annex F:** [CAR-OTP-2025-0372](#) at 0375; **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); **P-0808:** [CAR-OTP-2025-0324-R01](#) at 0340, para. 105 (Eng); **P-0808:** [CAR-OTP-2102-0045-R01](#) at 0064, para. 105 (Fr); *see also* **Media Article:** [CAR-OTP-2001-4020](#).

riots, isolated and sporadic acts of violence and other acts of a similar nature.¹⁰⁶ 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 of hostilities was renewed within months.¹⁰⁷

42. 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.¹⁰⁸ They also continued to recruit new members into their ranks, in anticipation of a counter-attack from BOZIZE loyalists.
43. Some forces loyal to BOZIZE had indeed remained within CAR and continued to display signs of armed resistance.¹⁰⁹ 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.¹¹⁰
44. 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.¹¹¹ While much of the leadership of the pro-BOZIZE forces had based themselves in Yaoundé (Cameroon),¹¹² many of the FACA members and

¹⁰⁶ 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.

¹⁰⁷ See *Gotovina* TJ, para. 1694; ICRC, *Commentary on GCI* (2016), para. 489.

¹⁰⁸ **P-2087:** CAR-OTP-2130-2320-R01 at 2327, para. 32 (Fr); **P-1732:** CAR-OTP-2091-0381-R01 at 0389, paras. 49, 53, at 0393-0394, para. 78 (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.

¹⁰⁹ **P-1521:** CAR-OTP-2102-0131-R01 at 0137-0138, paras. 30-31 (Fr); **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).

¹¹⁰ **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 2969, para. 25, at 2971, paras. 34-39, at 2972-2973, paras. 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 1306-1307 (Fr); **P-0342:** CAR-OTP-2008-0499-R01 at 0507-0508, 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).

¹¹¹ **P-2328:** CAR-OTP-2099-0165-R01 at 0173-0175, paras. 45, 48-51, 55 (Fr); **P-1719:** CAR-OTP-2062-0039-R01 at 0042-0043, paras. 20-29 (Eng); **P-1719:** CAR-OTP-2107-1605-R01 at 1609-1611, paras. 20-29 (Fr); **P-0100:** CAR-OTP-2118-6331-R01 at 6339, para. 38 (Fr); **P-1521:** CAR-OTP-2046-0603-R01 at 0607-0609, paras. 25-26, 30-35 (Eng); **P-2232:** CAR-OTP-2090-0561-R01 at 0566-0567, paras. 33-40, at 0568-0572, paras. 48-73 (Eng); **P-2232:** CAR-OTP-2107-6147-R01 at 6153-6154, paras. 33-40, at 6155-6159, paras. 48-73 (Fr); **P-0568:** CAR-OTP-2045-1211-R01 at 1228-1229, lns. 605-642 (Fr) and CAR-OTP-2045-1231-R01 at 1232-1238, lns. 21-247 (Fr).

¹¹² **P-1521:** CAR-OTP-2046-0603-R01 at 0607, para. 26 (Eng); **P-1521:** CAR-OTP-2102-0131-R01 at 0137, para. 26 (Fr); **P-2232:** CAR-OTP-2090-0561-R01 at 0566-0567, paras. 34, 39-40 (Eng); **P-2232:** CAR-OTP-2107-6147-R01 at 6153-6154, paras. 34, 39-40 (Fr); **P-2328:** CAR-OTP-2099-0165-R01 at 0192, para. 140 (Fr); **P-0974:** CAR-OTP-2058-0165-R01 at 0167, para. 15 (Eng); **P-0974:** CAR-OTP-2118-0813-R01 at 0816-0817,

Presidential Guards who remained loyal to BOZIZE — including KOUDEMON and the FACA elements under him¹¹³ — had retreated to the border regions outside CAR, training and organizing for their return.¹¹⁴

45. By September 2013, Anti-Balaka groups were engaged in more intense hostilities against the Seleka in western CAR, starting in the area around Bossangoa,¹¹⁵ spreading east to Bouca,¹¹⁶ next to Bohong and Bouar,¹¹⁷ and then south to Bossempaté, Bossembélé and Boali,¹¹⁸ with the aim of removing DJOTODIA from power and ousting the Seleka from the CAR.¹¹⁹ These hostilities culminated in an attack on Bangui on 5 December 2013.¹²⁰ 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.¹²¹

para. 15 (Fr); **P-1847**: [CAR-OTP-2107-0102-R01](#) at 0114-0115, paras. 80-85 (Eng); **P-1521**: [CAR-OTP-2046-0603-R01](#) at 0607, para. 26 (Eng); **P-2841**: [CAR-OTP-2127-4238-R01](#) at 4246-4247, paras. 42, 53 (Eng); **P-0568**: [CAR-OTP-2045-1129-R01](#) at 1135-1136, lns. 249-253 (Fr); **P-2625**: [CAR-OTP-2123-0377-R01](#) at 0386-0391, paras. 57-83 (Fr).

¹¹³ **B2 Report of 6 July 2013**: [CAR-OTP-2075-0908](#); **B2 Report of 1 August 2013**: [CAR-OTP-2075-0933](#).

¹¹⁴ **P-1521**: [CAR-OTP-2046-0603-R01](#) at 0607, paras. 25-26 (Eng); **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).

¹¹⁵ **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. *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.

¹¹⁶ **P-0966**: [CAR-OTP-2031-0241-R01](#) at 0248-0251, paras. 40-55 (Eng); **P-1521**: [CAR-OTP-2046-0603-R01](#) at 0609, para. 35 (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.

¹¹⁷ **P-0568**: [CAR-OTP-2045-1300-R01](#) at 1312-1313, lns. 452-488 (Fr); **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.

¹¹⁸ **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; **P-1521**: [CAR-OTP-2102-0131-R01](#) at 0138-0139, paras. 34-35 (Fr).

¹¹⁹ **P-0884**: [CAR-OTP-2080-1678-R01](#) at 1699-1700, lns. 699-747 (Fr/Eng); **P-1719**: [CAR-OTP-2062-0039-R01](#) at 0043, para. 28 (Eng)

¹²⁰ **P-1732**: [CAR-OTP-2091-2110-R01](#) at 2120, paras. 55-59 (Eng); **UN SG Report**: [CAR-OTP-2001-0409](#) at 0409, para. 3; **OHCHR Report**: [CAR-OTP-2001-0391](#) at 0394, para. 12.

¹²¹ *See, e.g.*, **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; **P-1847**: [CAR-OTP-2061-1534-R01](#) at 1562-1564, paras. 180-181, 189-191 (Fr); **ICG Report**: [CAR-OTP-2027-1631](#) at 1648; **IPIS Report**: [CAR-OTP-2001-5739](#) at 5788.

46. The 5 December 2013 Bangui attack was not immediately successful,¹²² but it catalysed weeks of increasingly intense violence.¹²³ Eventually, under growing international pressure, DJOTODIA resigned in January 2014, and the Seleka forces retreated to the north and east of the CAR.¹²⁴

2. *Nexus requirement*

47. 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 OCRB and CEDAD occurred because the Seleka perceived people with certain affiliations to be BOZIZE supporters and targeted them on that basis.¹²⁵

3. *Knowledge requirement*

48. 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.¹²⁶ 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**.¹²⁷

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

49. From at least 24 March 2013 until at least mid-November 2013, 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

¹²² **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.

¹²³ **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.

¹²⁴ **Media article**: [CAR-OTP-2001-4199](#); **UN SC Report**: [CAR-OTP-2001-0409](#) at 0410-0411, paras. 8-9.

¹²⁵ *See, e.g.*, **P-0776**: [CAR-OTP-2122-2976-R01](#) at 3008-3009, lns. 1219-1236 (Fr); [CAR-OTP-2122-3318-R01](#) at 3350, lns. 1219-1236 (Eng).

¹²⁶ **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.

¹²⁷ **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](#); **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].

committed pursuant to, and in furtherance of, a State or organisational policy by the Seleka to attack such persons, including on the basis of characteristics which they perceived to be associated with support for BOZIZE, such as: Christian faith;¹²⁸ membership of the ethnic tribes of the Gbaya, Mandja or Banda;¹²⁹ former membership of the FACA or Presidential Guard under BOZIZE;¹³⁰ familial or close association with former FACA or Presidential Guard members under BOZIZE;¹³¹ former employment by the BOZIZE government;¹³² and residence in certain areas of Bangui traditionally associated with support for BOZIZE.¹³³

50. 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.¹³⁴ This is a factual determination.¹³⁵ Nor

¹²⁸ **P-1004:** CAR-OTP-2043-0536-R01 at 0546, para. 73 (Eng); CAR-OTP-2130-1736-R01 at 1748, para. 73 (Fr); **P-3029:** CAR-OTP-2127-9572-R01 at 9574, paras. 13-15 (Eng); CAR-OTP-2127-9802-R01 at 9805, paras. 13-15 (Fr); **P-2027:** CAR-OTP-2078-0059-R01 at 0064, para. 35 (Eng); CAR-OTP-2118-0965-R01 at 0971-0972, para. 35 (Fr).

¹²⁹ **P-1732:** CAR-OTP-2091-0381-R01 at 0394-0395, para. 78 (Fr); CAR-OTP-2091-2110-R01 at 2123, para. 78 (Eng); **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-0776:** CAR-OTP-2122-3027-R01 at 3112-3113, lns. 3354-3384 (Fr); CAR-OTP-2122-3368-R01 at 3451-3452, lns. 3233-3255 (Eng); **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 6157, 6163, paras. 58, 91 (Fr); CAR-OTP-2090-0561-R01 at 0569, 0575, paras. 58, 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).

¹³⁰ **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-3029:** CAR-OTP-2127-9572-R01 at 9574, para. 13 (Eng); CAR-OTP-2127-9802-R01 at 9805, para. 13 (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).

¹³¹ **P-2328:** CAR-OTP-2099-0165-R01 at 0222, para. 307 (Fr).

¹³² **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); *see also* **P-1719:** CAR-OTP-2062-0039-R01 at 0041, para. 18 (Eng); CAR-OTP-2107-1605-R01 at 1608-1609, para. 18 (Fr).

¹³³ *See infra*, para. 54, 56 (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); **P-0776:** CAR-OTP-2122-3027-R01 at 3113-3117, lns. 3369-3451 (Fr); CAR-OTP-2122-3368-R01 at 3452-3456, lns. 3240-3405 (Eng).

¹³⁴ ICC-01/04-02/06-2666-Red A A2 (“*Ntaganda AJ*”), para. 424.

¹³⁵ *Id.*

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.¹³⁶

51. Within the context of an armed conflict,¹³⁷ the qualification of a person as a civilian for the purpose of crimes against humanity may be determined by international humanitarian law.¹³⁸ 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,¹³⁹ even when they are *hors de combat*.¹⁴⁰ 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.¹⁴¹

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

52. The attack involved the charged acts, which are described in detail in the DCC,¹⁴² and took place at the OCRB and the CEDAD. The attack further involved non-charged article 7(1) acts that took place in other locations in Bangui.
53. As examples, the Prosecution describes below four additional incidents that are reflective of the attack (the “Additional Incidents”).

¹³⁶ 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.

¹³⁷ 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.

¹³⁸ 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.

¹³⁹ 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.

¹⁴⁰ 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.

¹⁴¹ See *DPH Interpretive Guidance*, pp. 32-36. But see also Schmitt, pp. 132-133.

¹⁴² See DCC, paras. 33, 64.

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

54. On 13 April 2013, the Seleka attacked the 7th arrondissement, an area perceived to be aligned with BOZIZE,¹⁴³ during which the Seleka murdered, arrested residents, including children, and looted property.¹⁴⁴ Although the Seleka said they were looking for FACA members, as P-0312 saw it, they appeared “to simply target everyone.”¹⁴⁵ For example, the Seleka shot P-0312, [REDACTED], almost killing him.¹⁴⁶ Similarly, P-0882 saw the Seleka shooting two unarmed men in civilian clothing while they were fleeing.¹⁴⁷ According to contemporaneous records prepared by the Red Cross, at least 30 people were killed by the Seleka during this attack.¹⁴⁸ Seleka elements came back the next day and started firing weapons in the direction of residents, including P-0881, [REDACTED].¹⁴⁹
55. P-0881 further describes how the Seleka arbitrarily arrested many young men and minors, including fourteen-year-olds and people who were hiding under their beds at home.¹⁵⁰ When [REDACTED] reported on this arrest to DJOTODIA, he gave them money to pay ransom, suggesting his belief that the detention was arbitrary, but failed to give an order or send anyone to release the youth.¹⁵¹

b) Attack on the Boy Rabe neighbourhood of Bangui on 14-16 April 2013

56. On 14-16 April 2013, the Seleka attacked the Boy Rabe neighbourhood of Bangui,¹⁵² another area perceived to be aligned with the pro-BOZIZE forces/Anti-Balaka.¹⁵³ This

¹⁴³ **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).

¹⁴⁴ **P-0312:** CAR-OTP-2039-0133-R01 at 0139, paras. 37-42 (Eng); CAR-OTP-2122-3598-R01 at 3605-3606, paras. 37-42 (Fr); **P-0881:** CAR-OTP-2032-0682-R01 at 0691-0693, paras. 61-76 (Eng); CAR-OTP-2130-5262-R01 at 5272-5274, paras. 61-76 (Fr); **P-0882:** CAR-OTP-2032-0654-R01 at 0660-0661, paras. 34-43 (Eng); CAR-OTP-2127-9665-R01 at 9672-9673, paras. 34-43 (Fr).

¹⁴⁵ **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).

¹⁴⁶ **P-0312:** CAR-OTP-2122-3598-R01 at 3606-3607, paras. 39-45, at 3611, para. 66 (Fr); Annexes 4-5 and 16: 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-2127-9665-R01 at 9672, para. 35 (Fr).

¹⁴⁷ **P-0882:** CAR-OTP-2127-9665-R01 at 9673, paras. 38-40 (Fr).

¹⁴⁸ **P-0312:** CAR-OTP-2122-3598-R01 at 3608, paras. 51-54, at 3610, para. 59 (Fr); Annexes 7-10: CAR-OTP-2039-0351; CAR-OTP-2039-0353; CAR-OTP-2039-0354; CAR-OTP-2039-0355.

¹⁴⁹ **P-0881:** CAR-OTP-2130-5262-R01 at 5274, para. 72 (Fr).

¹⁵⁰ **P-0881:** CAR-OTP-2130-5262-R01 at 5273-5274, paras. 61-71 (Fr).

¹⁵¹ **P-0881:** CAR-OTP-2130-5262-R01 at 5275, para. 83 (Fr).

¹⁵² **P-1524:** CAR-OTP-2130-1902-R01 at 1908, para. 27 (Fr).

¹⁵³ **P-0776:** CAR-OTP-2122-3368-R01 at 3240-3242, 3452; **P-0119:** CAR-OTP-2107-1295-R01 at 1302-1307, 1323-1325, paras. 35-37, 66-74, 180, 192 (Fr); **P-1420:** CAR-OTP-2040-0811-R01 at 0830, para. 116 (Eng);

attack was organised in advance,¹⁵⁴ with senior Seleka officers present¹⁵⁵ and issuing orders during it.¹⁵⁶ 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.¹⁵⁷

57. One witness present during the attack, P-0119, described it as “like a collective punishment.”¹⁵⁸ Witnesses state that the Seleka told residents that they considered chickens to be more valuable than people from Boy Rabe.¹⁵⁹ During the attack, the Seleka launched a rocket that hit a Christian church located in or on the edge of Boy Rabe,¹⁶⁰ killing and severely injuring many people, including children.¹⁶¹

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-1172:** CAR-OTP-2122-4103-R01 at 4108, para. 34 (Fr); **P-1524:** CAR-OTP-2062-0468-R01 at 0471-0471, paras. 20, 25 (Eng); CAR-OTP-2130-1902-R01 at 1906-1907, paras. 20, 25 (Fr); **P-0776:** CAR-OTP-2036-0410-R01 at 0416, para. 31 (Eng); CAR-OTP-2130-0893-R01 at 0900, para. 31 (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).

¹⁵⁴ See *infra*, para. 73-85; **HRW Report:** CAR-OTP-2001-1870 at 1931-1936.

¹⁵⁵ **P-0342:** CAR-OTP-2008-0499-R01 at 0506, paras. 50-51, at 0523, paras. 158-159, 165 (Fr); CAR-OTP-2012-0039-R01 at 0047, paras. 50-51, at 0064-0065, paras. 158-159, 165 (Eng); Annexes 1 and 6: CAR-OTP-2008-0528-R01 and CAR-OTP-2008-0538-R01; **P-0787:** CAR-OTP-2036-0410-R01 at 0416-0417 paras. 34, 37, 0422, para. 55 (Eng); CAR-OTP-2130-0893-R01 at 0900-0901, paras. 34, 37 and 0906, para. 55 (Fr); **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 0477-0478, paras. 34-35, 49-50 (Eng); CAR-OTP-2130-1902-R01 at 1911, 1914, paras. 34-35, 49-50 (Fr).

¹⁵⁶ **P-1825:** CAR-OTP-2079-0315-R01 at 0318, paras. 17-21, at 0321, para. 34, at 0322-0323, paras. 40-43, 45 (Eng); CAR-OTP-2130-2169-R01 at 2173-2174, para. 17-21, at 2176, para. 34, at 2178-2179, paras. 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-2087-9396-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).

¹⁵⁷ **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, 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).

¹⁵⁸ **P-0119:** CAR-OTP-2032-0753-R01 at 0767, para. 99 (Eng); CAR-OTP-2107-1295-R01 at 1312, para. 99 (Fr).

¹⁵⁹ **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).

¹⁶⁰ **P-1282:** CAR-OTP-2042-4731-R01 at 4739-4740, paras. 67-79 (Eng); CAR-OTP-2127-7583-R01 at 7592-7593, paras. 67-79 (Fr); **P-0923:** CAR-OTP-2043-0463-R01 at 0467, para. 31 (Eng); CAR-OTP-2130-1719-R01 at 1725, para. 31 (Fr); **P-1277:** CAR-OTP-2039-0419-R01 at 0423-0424, para. 24 (Fr); CAR-OTP-2051-0966-R01 at 0971, para. 24 (Eng); **AI Report:** CAR-OTP-2001-1767 at 1787; see also **P-0545:** CAR-OTP-2102-0293-R01 at 0297, para. 25 (Fr); **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).

¹⁶¹ **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.

58. This attack resulted in many murder¹⁶² and rape victims.¹⁶³ Three Prosecution witnesses describe being gang-raped by Seleka during this attack.¹⁶⁴ Seven Prosecution witnesses describe witnessing murders by the Seleka¹⁶⁵ or seeing the corpses of murder victims.¹⁶⁶ P-0834, for example, was [REDACTED].¹⁶⁷ Many other people were arbitrarily arrested during this operation.
59. The attack also involved numerous instances of other inhumane acts, such as severe beatings¹⁶⁸ and door-by-door, clearance-style looting of personal property,¹⁶⁹ including

¹⁶² **P-0119:** CAR-OTP-2032-0753-R01 at 0767-0773, paras. 95, 110, 114, 117-118, 142 (Eng); CAR-OTP-2107-1295-R01 at 1311-1323, paras. 95, 110, 114, 117-118, 142 (Fr); 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); CAR-OTP-2130-2169-R01 at 2176-2177, paras. 35, 38 (Fr); **P-1264:** CAR-OTP-2036-0065-R01 at 0069, para. 36 (Eng); CAR-OTP-2127-7529-R01 at 7534, para. 36 (Fr); **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; *see also supra*, para. 57; **P-1277:** CAR-OTP-2039-0419-R01 at 0423, paras. 20, 22-25 (Fr); 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); CAR-OTP-2130-0893-R01 at 0900, paras. 32-33 (Fr); **HRW Report:** CAR-OTP-2001-1870 at 1891, 1896, 1934-1935.

¹⁶³ **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-1313:** CAR-OTP-2038-0098-R01 at 0103, 0105, paras. 35-40, 54-56 (Eng); CAR-OTP-2130-5284-R01 at 5290, paras. 35-40, 54-56 (Fr); **P-0757:** CAR-OTP-2029-0326-R01 at 0332, paras. 41-44 (Fr); **P-0834:** CAR-OTP-2029-0248-R01 at 0253-0254, paras. 33-37 (Fr); 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; CAR-OTP-2118-6331-R01 at 6343, paras. 56-57 (Fr); **P-1524:** CAR-OTP-2062-0468-R01 at 0483-0484, paras. 76-78 (Eng); CAR-OTP-2130-1902-R01 at 1919-1920, paras. 76-78 (Fr); **Annex 3:** CAR-OTP-2062-0495; **P-1732:** CAR-OTP-2091-2110-R01 at 2131, para. 120; **P-0119:** CAR-OTP-2032-0753-R01 at 0767, para. 95, at 0770, para. 117 (Eng); CAR-OTP-2107-1295-R01 at 1311, para. 95, at 1323, para. 117 (Fr); **P-1825:** CAR-OTP-2079-0315-R01 at 0321, para. 37, at 0324, para. 48 (Eng); CAR-OTP-2130-2169-R01 at 2177, para. 37, at 2179, para. 48 (Fr); **OHCHR mission report:** CAR-OTP-2034-0270 at 0298, para. 143; **HRW Report:** CAR-OTP-2001-1870 at 1940-1941.

¹⁶⁴ **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-0757:** CAR-OTP-2029-0326-R01 at 0332, paras. 41-44 (Fr); **P-1313:** CAR-OTP-2038-0098-R01 at 0103, 0105, paras. 35-40, 54-56 (Eng). For the date of P-1313's rape, see CAR-OTP-2034-1324-R01 at 1349.

¹⁶⁵ **P-1825:** CAR-OTP-2079-0315-R01 at 0321-0322, paras. 35, 38 (Eng); CAR-OTP-2130-2169-R01 at 2177-2179, paras. 35, 38 (Fr); **P-1524:** CAR-OTP-2062-0468-R01 at 0475, para. 31 (Eng); CAR-OTP-2130-1902-R01 at 1911, para. 31 (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-0834:** CAR-OTP-2029-0248-R01 at 0253-0254, paras. 33-37 (Fr); CAR-OTP-2048-0310-R01 at 0316, paras. 33-37 (Eng).

¹⁶⁶ **P-1264:** CAR-OTP-2036-0065-R01 at 0069, para. 36 (Eng); CAR-OTP-2127-7529-R01 at 7534, para. 36 (Fr); **P-0100:** CAR-OTP-2027-2535-R01 at 2543, 2545, paras. 47, 59-60 (Eng); CAR-OTP-2118-6331-R01 at 6341, 6343-6344, paras. 47, 59-60 (Fr); **P-0119:** CAR-OTP-2032-0753-R01 at 0769-0770, 0773, paras. 109-110, 114, 117, 142 (Eng); CAR-OTP-2107-1295-R01 at 1313, 1314, 1318, paras. 109-110, 114, 117, 142 (Fr).

¹⁶⁷ **P-0834:** CAR-OTP-2048-0310-R01 at 0316, paras. 33-37 (Eng); CAR-OTP-2029-0248-R01 at 0253-0254, paras. 33-37 (Fr).

¹⁶⁸ **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); **P-0358:** CAR-OTP-2118-0750-R01 at 0762, para. 72 (Fr); 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); CAR-OTP-2107-1295-R01 at 1313, paras. 103-107 (Fr); **P-1172:** CAR-OTP-2046-1003-R01 at 1006-1007, paras. 24-35 (Eng); CAR-OTP-2122-4103-R01 at 4107-4108, paras. 24-35 (Fr); **AFP Video:** CAR-OTP-2048-0342 (interview of P-1172 by the Seleka).

¹⁶⁹ **P-0119:** CAR-OTP-2032-0753-R01 at 0767, 0769-0772, paras. 95, 113, 122, 127, 129-130, 134, 137 (Eng); CAR-OTP-2107-1295-R01 at 1311, 1314, 1315, 1316-1317, paras. 95, 113, 122, 127, 129-130, 134, 137 (Fr) **P-1825:** CAR-OTP-2079-0315-R01 at 0319, 0320, 0324, paras. 26, 28, 30, 47 (Eng); CAR-OTP-2130-2169-R01 at

food and other goods vital to the basic subsistence of the Boy Rabe residents.¹⁷⁰ As one local leader put it, “[b]y the time [the Seleka] were done looting, people had nothing left to wear or to eat. Their livelihoods were destroyed.”¹⁷¹

c) An attack on the Boy Rabe neighbourhood from 20-24 August 2013

60. On 20-24 August 2013,¹⁷² the Seleka again attacked the Boy Rabe neighbourhood, during which the Seleka committed similar crimes as during the April 2013 operation,¹⁷³ in a similarly organised fashion under the instruction of Seleka commanders.¹⁷⁴
61. The commanders overseeing the operation included ADAM. Indeed, P-1263 describes [REDACTED].¹⁷⁵ Immediately after, ADAM ordered his subordinates to “finish the job.”¹⁷⁶ [REDACTED].¹⁷⁷ [REDACTED],¹⁷⁸ [REDACTED].¹⁷⁹

2175, paras. 26, 28, 30, 47 (Fr); **P-1264:** CAR-OTP-2036-0065-R01 at 0069, paras. 37-38 (Eng); CAR-OTP-2127-7529-R01 at 7534-7535, paras. 37-38 (Fr); **P-1313:** CAR-OTP-2038-0098-R01 at 0103, paras. 33, 40 (Eng); CAR-OTP-2130-5284-R01 at 5290, paras. 33, 40 (Fr); **P-0757:** CAR-OTP-2029-0326-R01 at 0332, para. 40 (Fr); **P-1277:** CAR-OTP-2051-0966-R01 at 0970-0971, paras. 20, 24 (Eng); CAR-OTP-2039-0419-R01 at 0423, paras. 20, 24 (Fr); **P-1524:** CAR-OTP-2062-0468-R01 at 0475, para. 31 (Eng); CAR-OTP-2130-1902-R01 at 1909, para. 31 (Fr); **P-0500:** CAR-OTP-2013-0557-R01 at 0566, paras. 26-28 (Eng); CAR-OTP-2122-3490-R01 at 3500, paras. 26-28 (Fr).

¹⁷⁰ **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, 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).

¹⁷¹ **P-0100:** CAR-OTP-2027-2535-R01 at 2543-2544, para. 53 (Eng); CAR-OTP-2118-6331-R01 at 6342, para. 53 (Fr).

¹⁷² **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).

¹⁷³ **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, para. 66; CAR-OTP-2130-2320-R01 at 2332, 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); CAR-OTP-2130-5296-R01 at 5301, 5302, 5303-5305 paras. 21, 25, 29-36 (Fr); **P-1297:** CAR-OTP-2039-0167-R01 at 0169, para. 36 (Eng); CAR-OTP-2107-1354-R01 at 1360, para. 36 (Fr).

¹⁷⁴ **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 2334-2335, 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.

¹⁷⁵ **P-1263:** CAR-OTP-2045-0805-R01 at 0819-0820, paras. 87-89 (Fr).

¹⁷⁶ **P-1263:** CAR-OTP-2045-0805-R01 at 0819-0820, paras. 87-89, 92 (Fr).

¹⁷⁷ **P-1263:** CAR-OTP-2054-0616-R01 at 0631-0633, paras. 92-102 (Eng); CAR-OTP-2045-0805-R01 at 0820-0822, paras. 92-102 (Fr).

¹⁷⁸ **P-1263:** CAR-OTP-2045-0805-R01 at 0821, para. 101 (Fr); Annexes 2, 3, 7: CAR-OTP-2045-0855, CAR-OTP-2045-0856, CAR-OTP-2045-0863.

¹⁷⁹ **P-1263:** CAR-OTP-2045-0805-R01 at 0821, 0826, paras. 97-100, 131-132 (Fr); Annex 6: CAR-OTP-2045-0859-R01.

62. 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 [REDACTED].¹⁸⁰ The Seleka also shot at P-1424, [REDACTED] of P-1427.¹⁸¹ 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;" by the end of the incident, the witness had to help bury many bodies.¹⁸²
63. The Seleka arbitrarily arrested and mistreated many other people during this incident, including P-0547, P-2179, P-2179's neighbour, P-0547, and P-1432.¹⁸³ Some of the people arrested by the Seleka during this incident never returned. For example, on [REDACTED] August 2013, the Seleka severely beat and imprisoned [REDACTED], P-2179 and [REDACTED], after they found them hiding [REDACTED].¹⁸⁴ P-2179's [REDACTED].¹⁸⁵

d) Attack on a minibus in the PK9 area of Bangui, on or around 13 July 2013

64. On or around 13 July 2013, the Seleka attacked a minibus in the PK9 area of Bangui, where the Seleka arbitrarily arrested between six to eight male passengers,¹⁸⁶ apparently because two of them were wearing BOZIZE t-shirts or BOZIZE t-shirts were found in the vehicle.¹⁸⁷ P-2573 saw [REDACTED].¹⁸⁸ Within a day or two, other Prosecution

¹⁸⁰ **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-1427:** CAR-OTP-2043-0306-R01 at 0308-0309, paras. 16-27 (Fr); Annex A, CAR-OTP-2043-0312.

¹⁸¹ **P-1427:** CAR-OTP-2043-0306-R01 at 0308-0309, paras. 16-21 (Fr).

¹⁸² **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).

¹⁸³ **P-2179:** CAR-OTP-2130-2342-R01 at 2348-2274, 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); **P-1432:** CAR-OTP-2050-0172-R01 at 0175, paras. 20-24 (Fr). *See also* **P-1521:** CAR-OTP-2102-0131-R01 at 0136, para. 24 (Fr).

¹⁸⁴ **P-2179:** CAR-OTP-2130-2342-R01 at 2349, 2356, 2358, paras. 29-32, 60-61, 71-74 (Fr); *See also* **P-0100:** CAR-OTP-2118-6331-R01 at 6348, para. 71 (Fr);

¹⁸⁵ **P-2179:** CAR-OTP-2130-2342-R01 at 2358, para. 74 (Fr).

¹⁸⁶ **P-0529:** CAR-OTP-2041-0031-R01 at 0034-0038, paras. 21-46 (Fr); **P-2573:** CAR-OTP-2130-5230-R01 at 5248, paras. 64-67 (Fr).

¹⁸⁷ **P-2573:** CAR-OTP-2130-5230-R01 at 5248, paras. 64-67 (Fr). *See also* **P-0659:** CAR-OTP-2130-0873-R01 at 0881, para. 39 (Fr); **P-0887:** CAR-OTP-2130-1686-R01 at 1694, para. 45 (Fr); **P-0843:** CAR-OTP-2029-0248-R01 at 0256, para. 55 (Fr).

¹⁸⁸ **P-2573:** **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.

witnesses saw dead bodies floating in the river, tied up.¹⁸⁹ [REDACTED].¹⁹⁰ This incident was prominently reported. Nevertheless, despite the notoriety of the incident,¹⁹¹ [REDACTED],¹⁹² DJOTODIA and ADAM did not investigate or take disciplinary action against the Seleka involved.¹⁹³

2. The Seleka attacked a civilian population

65. 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 and CEDAD 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.¹⁹⁴ The Seleka targeted the civilian population in Bangui perceived to support BOZIZE in order to suppress and prevent resistance and stay in power.
66. Similarly, even among those detained at the OCRB and CEDAD, many victims were not members of the pro-BOZIZE forces nor could reasonably have been suspected as such, based on factors including their occupation and their activity at the time they were apprehended. Certainly, there is no indication that any of the victims of the charged crimes were directly participating in hostilities at the relevant time.¹⁹⁵ Among the detainee population at OCRB, for example, were (1) [REDACTED]; (2) [REDACTED]; (3) [REDACTED]; (4) [REDACTED]; and (5) [REDACTED].¹⁹⁶

¹⁸⁹ **P-1164:** CAR-OTP-2059-0513-R01 at 0521, 0523, paras. 51-59, 67-68 (Eng) CAR-OTP-2130-1767-R01 at 1776, 1778, paras. 51-59, 67-68 (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. *See also* **P-0358:** CAR-OTP-2043-0433-R01 at 0447-0448, paras. 96-104 (Eng); CAR-OTP-2128-0750-R01 at 0766-0767, paras. 96-104 (Fr); Annex 2: CAR-OTP-2043-0433-R01; **P-0234:** CAR-OTP-2005-5407-R01 at 5414, para. 55 (Fr); **P-0887:** CAR-OTP-2130-1686-R01 at 1694, para. 45 (Fr).

¹⁹⁰ **P-0529:** CAR-OTP-2051-0159-R01 at 0163-0167, paras. 21-45 (Eng); **P-0529:** CAR-OTP-2041-0031-R01 at 0034-0038, paras. 21-45 (Fr).

¹⁹¹ *See, e.g.,* **P-1732:** CAR-OTP-2091-0381-R01 at 0400, para. 114 (Fr); **P-0923:** CAR-OTP-2130-1719-R01 at 1725, para. 32 (Fr).

¹⁹² **P-1164:** CAR-OTP-2130-1767-R01 at 1776, paras. 51-59 (Fr).

¹⁹³ **P-0234:** CAR-OTP-2005-5407-R01 at 5414, paras. 55-58 (Fr); **P-0358:** CAR-OTP-2118-0750-R01 at 0766, para. 99 (Fr).

¹⁹⁴ *See, e.g.,* **P-1289:** CAR-OTP-2127-7632-R01 at 7636, para. 20 (Fr).

¹⁹⁵ *See Prosecutor v. Ali Muhammad Abd-Al-Rahman (Kushayb’)*, Decision on the confirmation of charges, ICC-02/05-01/20-433, 9 July 2021, paras. 82-83.

¹⁹⁶ *See* DCC, para. 33, incidents b, l, n-o, s.

Among the detainees at the CEDAD were: (1) [REDACTED]; (2) [REDACTED]; (3) [REDACTED]; (4) [REDACTED]; and (5) [REDACTED].¹⁹⁷

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

67. 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.¹⁹⁸
68. 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 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

69. 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 neighbourhood¹⁹⁹ — and the 7th *arrondissement*.²⁰⁰ These areas were greatly impacted as a result, with community leaders recording that thousands of residents fled their neighbourhoods due to the Seleka's conduct.²⁰¹

¹⁹⁷ See DCC, para. 64, incidents a-b, g-h, k.

¹⁹⁸ See Ongwen TJ, paras. 2678-2679.

¹⁹⁹ **P-0889:** CAR-OTP-2027-2290-R01 at 2293, para. 16 (Fr); **P-1420:** CAR-OTP-2040-0811-R01 at 0830, paras. 116-117 (Eng); **P-0889:** CAR-OTP-2130-1827-R01 at 1848, paras. 116-117 (Fr); **P-0100:** CAR-OTP-2027-2535-R01 at 2539-2540, paras. 22, 27-28 (Eng); **OHCHR interim report:** CAR-OTP-2001-0172 at 0183, para. 54 (Eng).

²⁰⁰ **P-0312:** CAR-OTP-2122-3598-R01 at 3602-3603, 3605, paras. 23-28, 37 (Fr); **P-1289:** CAR-OTP-2127-7632-R01 at 0363, 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).

²⁰¹ **P-0100:** CAR-OTP-2130-1827-R01 at 1847, para. 111 (Fr); **P-0119:** CAR-OTP-2107-1295-R01 at 1318, para. 143 (Fr).

70. During the Seleka's search operations, they claimed to be looking for weapons and individuals engaged in the ongoing hostilities.²⁰² They also sometimes clashed with pro-BOZIZE forces, as detailed above.²⁰³ However, the Seleka's overall conduct demonstrated that the attack was directed against the civilian population.
71. 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, during the 14-16 April Boy Rabe attack, P-1825 saw the Seleka kill an old man [REDACTED].²⁰⁴ 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.²⁰⁵ [REDACTED].²⁰⁶
72. 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."²⁰⁷
73. The Seleka's pattern of violence against civilians included, on many occasions, the targeting of entire neighbourhoods rather than particular individuals. A prime example of this is the 14-16 April Boy Rabe attack described above. [REDACTED].²⁰⁸ P-0100, [REDACTED] replied saying [REDACTED].²⁰⁹ [REDACTED]²¹⁰
74. A day or two after that meeting, the Seleka attacked Boy Rabe, "firing their weapons at everyone."²¹¹ P-0100 was [REDACTED].²¹² As he put it, "[t]he Seleka looted, tortured,

²⁰² **P-0889**: CAR-OTP-2027-2290-R01 at 2293, para. 17 (Fr).

²⁰³ *See supra*, paras. 62-65.

²⁰⁴ **P-1825**: CAR-OTP-2079-0315-R01 at 0322, para. 38 (Eng).

²⁰⁵ *See supra*, paras. 58, 60; **P-0776**: CAR-OTP-2122-3152-R01 at 3180, lns. 1105-1106 (Fr); **P-1524**: CAR-OTP-2062-0468-R01 at 0483, paras. 76-77 (Eng).

²⁰⁶ **P-1313**: CAR-OTP-2130-5284-R01 at 5290, para. 34 (Fr).

²⁰⁷ **P-0119**: CAR-OTP-2032-0753-R01 at 0762, para. 66 (Eng). *See also* **P-2027**: CAR-OTP-2078-0059-R01 at 0065-0066, paras. 41-46 (Eng).

²⁰⁸ **P-0100**: CAR-OTP-2118-6331-R01 at 6339, paras. 35-36 (Fr).

²⁰⁹ **P-0100**: CAR-OTP-2027-2535-R01 at 2543, para. 44 (Eng).

²¹⁰ *Id.*

²¹¹ **P-0100**: CAR-OTP-2027-2535-R01 at 2543, para. 46 (Eng).

²¹² *Id.*

raped and killed many people, punishing the entire community in retaliation for the actions of the few responsible individuals.”²¹³

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

75. 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.
76. As discussed below, senior Seleka commanders, including **SAID** and his superior, **ADAM**, oversaw the operations of the OCRB and the CEDAD, where perceived **BOZIZE** supporters were imprisoned and tortured. Both **SAID** and **ADAM** were involved in interrogations.
77. 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]. P-1420 was [REDACTED].²¹⁴ Another [REDACTED] also confirmed that top Seleka commanders, including **ADAM**, specifically targeted Boy Rabe²¹⁵ and ordered that Gbayas be killed²¹⁶ because they were perceived as **BOZIZE** supporters.

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

78. 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.²¹⁷ At the OCRB and CEDAD, **ADAM** and **SAID** directed their subordinates to arrest and mistreat people perceived to be linked to **BOZIZE**,²¹⁸ and their subordinates in turn arrested, mistreated and tortured such people, though many were obviously civilians.²¹⁹ **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

²¹³ **P-0100**: CAR-OTP-2027-2535-R01 at 2552, para. 99 (Eng).

²¹⁴ **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).

²¹⁵ **P-0776**: CAR-OTP-2122-3368-R01 at 3452-3458, lns. 3232-3469 (Eng).

²¹⁶ **P-0776**: CAR-OTP-2122-3368-R01 at 3457, lns. 3437-3457 (Eng).

²¹⁷ *See, e.g.*, **P-0622**: CAR-OTP-2022-0121-R01 at 0128-0129, paras. 54, 65 (Fr).

²¹⁸ *See infra*, Section III; *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).

²¹⁹ *See* DCC, para. 33, 64; **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).

for 15 to 20 years, and we're going to kill the lot of you.”²²⁰ ADAM's subordinate,²²¹ AL-BACHAR, echoed his sentiments, telling detainees “you, BOZIZE's mercenaries, we are going to kill you, one by one.”²²² Another of ADAM's subordinates,²²³ Mahamat SALLET, told a detainee that he had arrested him because he had worked for BOZIZE's government.²²⁴

79. Similarly, in mid-April 2013, [REDACTED] came to [REDACTED] P-0119, [REDACTED].²²⁵ 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.²²⁶ [REDACTED].²²⁷ Around this time, in the early months of the Seleka government, P-1970, [REDACTED].²²⁸

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

80. The crimes against humanity charged in the DCC and described further below were committed as part of an attack on the civilian population that was both widespread and systematic.

a) The attack was systematic

81. The attack was perpetrated in a systematic manner. The crimes comprising the attack were not committed at random. The crimes at OCRB and CEDAD 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 of time, more than 8 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.

²²⁰ **P-0622:** CAR-OTP-2029-0210-R01 at 0219, para. 65 (Eng).

²²¹ **P-0760:** CAR-OTP-2023-0567-R01 at 0574, para. 46 (Eng).

²²² **P-0547:** CAR-OTP-2025-0566-R01 at 0573, para. 38 (Eng).

²²³ **P-0481:** CAR-OTP-2018-0530-R01 at 0538, para. 51 (Eng).

²²⁴ **P-1289:** CAR-OTP-2127-7632-R01 at 7641, paras. 42-43 (Fr).

²²⁵ **P-0119:** CAR-OTP-2032-0753-R01 at 0765, para. 85 (Eng).

²²⁶ **P-0100:** CAR-OTP-2027-2535-R01 at 2541-2542, para. 39 (Eng).

²²⁷ See *supra*, para. 73.

²²⁸ **P-1719:** CAR-OTP-2087-9396-R01 at 9404, para. 34 (Eng).

(i) **Planning and Coordination**

82. As described elsewhere in this document,²²⁹ 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 OCRB and CEDAD, where many perceived BOZIZE supporters were imprisoned and tortured.
83. Similarly, during the Boy Rabe operations, as set out above, Prosecution witnesses saw Seleka commanders physically present, commanding their elements.²³⁰ Both operations were conducted on a large scale, involving hundreds of Seleka elements.²³¹ P-1825, a Boy Rabe resident [REDACTED], estimated that around 100 Seleka elements were on the ground looting that day.²³² P-1825 further stated that every time one vehicle was full, the Seleka already had another vehicle waiting to load more goods.²³³
84. 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.²³⁴ Notably, Prosecution witnesses observed Muslims and Muslim houses deliberately being spared from looting or other harm.²³⁵
85. As another indicator of planning and coordination, according to a standard Seleka practice in this period,²³⁶ the Seleka shut off the electricity and water during the three-

²²⁹ See *supra*, paras. 54-64; see *infra*, Section III (Individual Criminal Responsibility); see also **P-2241**: CAR-OTP-2127-9409-R01 at 9422-9424, paras. 61-67 (Fr).

²³⁰ See *supra*, paras. 56, 60; **P-0100**: CAR-OTP-2027-2535-R01 at 2562, para. 161 (Eng).

²³¹ **P-1524**: CAR-OTP-2130-1902-R01 at 1908, para. 28 (Fr).

²³² **P-1825**: CAR-OTP-2079-0315-R01 at 0320, para. 30 (Eng).

²³³ **P-1825**: CAR-OTP-2079-0315-R01 at 0320, para. 30 (Eng).

²³⁴ **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); **P-0776**: CAR-OTP-2122-3368-R01 at 3455-3456, lns. 3383-3405 (Eng).

²³⁵ **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, 102-103, 113, 123-128 (Eng); See also **P-1524**: CAR-OTP-2062-0468-R01 at 0479, paras. 53-55 (Eng).

²³⁶ **P-1420**: CAR-OTP-2130-1827-R01 at 1848, para. 115 (Fr); **P-1297**: CAR-OTP-2107-1354-R01 at 1364, para. 57 (Fr).

day April 2013 operation in Boy Rabe.²³⁷ 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.²³⁸ This action followed the Seleka's standard practice, reflecting advance planning and organization.

(ii) Consistent Pattern

86. The Seleka used a consistent *modus operandi* when carrying out their crimes. Notably, at OCRB and CEDAD, the Seleka regularly used a particular torture method referred to as *arbatachar*, where detainees' arms were tied to their legs behind their backs.²³⁹ Many Prosecution witnesses describe having been subjected to this method or witnessing others be tortured this way.²⁴⁰ Witnesses also saw this method being used during the Additional Incidents.²⁴¹
87. As described by both [REDACTED] and victims, the Seleka often severely beat prisoners during their arrest²⁴² and upon their arrival at OCRB or CEDAD.²⁴³ 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

88. The Seleka attack was sustained over a period of over 8 months. It resulted in a substantial number of victims subjected to the same type of crimes, an indicator that the crimes committed were not isolated or spontaneous. At OCRB and CEDAD alone, the Seleka imprisoned, at a minimum, over 90 people and tortured over 50 people.²⁴⁴ Furthermore, the accounts of Prosecution witnesses establishes that the Seleka murdered over 70

²³⁷ **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).

²³⁸ **P-1524:** CAR-OTP-2062-0468-R01 at 0475-0476, para. 33 (Eng).

²³⁹ **P-3029:** CAR-OTP-2127-9572-R01 at 9576, para. 22 (Eng); **P-0776:** CAR-OTP-2036-0410-R01 at 0422, para. 55 (Eng); **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).

²⁴⁰ 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).

²⁴¹ See *supra*, paras. 54-64 (citing sources for the four Additional Incidents).

²⁴² **P-1167:** CAR-OTP-2094-0002-R01 at 0020, para. 110 (Eng); **P-2400:** CAR-OTP-2104-0424-R01 at 0428, 0424-0425, paras. 21-22, 55 (Eng); **P-2179:** CAR-OTP-2088-2250-R01 at 2256, para. 30 (Eng).

²⁴³ **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).

²⁴⁴ See DCC, paras. 33, 55, 64.

people and raped numerous women during the four Additional Incidents (which are presented as mere *examples* of the overall attack).²⁴⁵

89. 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.²⁴⁶ 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).²⁴⁷

b) The attack was widespread

90. 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.

5. Knowledge requirement

91. 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 and intended for

²⁴⁵ See *supra*, paras. 54-64.

²⁴⁶ See *supra*, paras. 54- 64, 83, esp. 54, 59, 83.

²⁴⁷ 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.

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 and CEDAD,²⁴⁸ and the public notoriety of the Seleka's conduct,²⁴⁹ he was well aware of the discriminatory targeting of perceived BOZIZE supporters.

III. INDIVIDUAL CRIMINAL RESPONSIBILITY

A. Overview of SAID's Role

92. **SAID** is charged with crimes at OCRB from at least 12 April 2013 until 30 August 2013 for jointly committing with others (article 25(3)(a)), ordering or inducing those crimes (article 25(3)(b)); aiding, abetting or otherwise assisting members of the OCRB- Seleka in the commission of the charged crimes (article 25(3)(c)), and for contributing, in any other way, to the commission of those crimes by the OCRB-Seleka and the Seleka leaders in Bangui who acted with a common purpose (article 25(3)(d)).²⁵⁰
93. **SAID** is charged with crimes at CEDAD from at least 15 September 2013 until on or about 8 November 2013 for aiding, abetting or otherwise assisting the Seleka at CEDAD in the commission of the crimes charged (article 25(3)(c)), and for contributing, in any other way, to the commission of those crimes by the Seleka who acted with a common purpose (article 25(3)(d)).²⁵¹

1. SAID's Role at OCRB

94. The evidence provided by [REDACTED] witnesses as well as documentary evidence shows that **SAID** was the top-ranking Seleka at OCRB who was put into this position by ADAM.²⁵² ADAM appointed **SAID** as the factual head of the OCRB on or about 12 April 2013, effectively putting him in charge of this police unit and all Seleka who were stationed there, and reporting directly to ADAM.²⁵³

²⁴⁸ See *infra*, Section III (Individual Criminal Responsibility); see also **P-0338**: CAR-OTP-2130-5761-R01 at 5781, para. 106 (Fr).

²⁴⁹ See, e.g., **P-0789**: CAR-OTP-2130-0820-R01 at 0835-0836, paras. 95, 101 (Fr).

²⁵⁰ See DCC, paras. 29-36.

²⁵¹ See DCC, paras. 50-67.

²⁵² **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 OCRB Seleka**: CAR-OTP-2082-0458.

²⁵³ **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.

95. The evidence in relation to **SAID**'s role shows that ADAM appointed **SAID** as the *de facto* head of the OCRB on 12 April 2013 until 30 August 2013, effectively putting him in charge of this police unit, including all Seleka stationed there. **SAID** had full authority over more than 60 Seleka elements stationed at OCRB.²⁵⁴ These Seleka were under **SAID**'s command,²⁵⁵ and they would follow his orders, which were mostly given verbally. They stood up when he entered the premises and addressed him as "my Colonel".²⁵⁶ **SAID** divided the Seleka under his command up into four groups and they would go on patrols and work in 24 hour rotations.²⁵⁷ **SAID** was in charge of all four groups.²⁵⁸ He also held an Office in the main building of the OCRB.²⁵⁹
96. His deputy was Mahamat TAHIR Babikir ("TAHIR"),²⁶⁰ who was also appointed by ADAM.²⁶¹ The Seleka YAYA Soumaine aka Soumayele ("YAYA") was also his subordinate and acted as an advisor at OCRB.²⁶² According to P-0338, YAYA was **SAID**'s most trusted associate at OCRB.²⁶³
97. Hissene DAMBOUCHA was another senior Seleka next to TAHIR cooperating with **SAID** at OCRB on detentions.²⁶⁴ [REDACTED] witness P-1167 states that DAMBOUCHA held a commanding role at OCRB and was involved in crimes committed against detainees there.²⁶⁵ P-2563, [REDACTED], explains that DAMBOUCHA was actually a direct subordinate of SALLET, who was senior to **SAID**,²⁶⁶ but also reported directly to ADAM.²⁶⁷ Another Colonel, named NOIRO, was

²⁵⁴ **P-2161**: CAR-OTP-2127-9323-R01 at 9333, paras. 50, 52 (Fr).

²⁵⁵ **P-2504**: CAR-OTP-2107-8430-R01 at 8438, para. 42 (Fr); **P-2563**: CAR-OTP-2130-4890-R01 at 4906, lns. 514-520.

²⁵⁶ **P-2504**: CAR-OTP-2107-8430-R01 at 8438, para. 42 (Fr).

²⁵⁷ **P-2161**: CAR-OTP-2127-9323-R01 at 9333, para. 50 (Fr).

²⁵⁸ **P-2161**: CAR-OTP-2127-9323-R01 at 9333, para. 50 (Fr).

²⁵⁹ *See infra*, para. 163; **P-0338**: CAR-OTP-2130-5761-R01 at 5783, 5785, para. 119.

²⁶⁰ **P-0338**: CAR-OTP-2130-5761-R01 at 5773, para. 62; **List of OCRB Seleka**: CAR-OTP-2082-0458.

²⁶¹ **P-2105**: CAR-OTP-2078-0003-R01 at 0015, 0016, paras. 69, 80 (Fr).

²⁶² **P-2563**: CAR-OTP-2130-4811-R01 at 4832, lns. 667-691 (spelled "SOUMAINÉ"); **P-0338**: CAR-OTP-2130-5761-R01 at 5773, para. 62 (Fr); [REDACTED] **List of OCRB Seleka**: CAR-OTP-2036-0439 (spelled "SOUMAYELE").

²⁶³ **P-0338**: CAR-OTP-2130-5761-R01 at 5777, para. 82 (Fr).

²⁶⁴ **P-1167**: CAR-OTP-2127-7671-R01 at 7685, para. 76 (Fr); **P-2105**: CAR-OTP-2081-0037-R01 at 0041, para. 22.

²⁶⁵ **P-1167**: CAR-OTP-2127-7671-R01 at 7688, 7696, paras. 94, 138-142 (Fr).

²⁶⁶ **P-2563**: CAR-OTP-2130-4837-R01 at 4846, lns. 240-245; **P-2563**: CAR-OTP-2130-4978-R01 at 4982, lns. 90-95. *See infra*, paras. 104, 114.

²⁶⁷ **P-1167**: CAR-OTP-2127-7671-R01 at 7689, para. 96 (Fr)

also subordinate to **SAID**. NOIRO and YAYA would also lead the rapid interventions of the OCRB.²⁶⁸

98. The OCRB was a pre-existing subunit of the CAR national police.²⁶⁹ The OCRB headquarters²⁷⁰ is located in Bangui, opposite the police headquarters, and near the Presidential Palace.²⁷¹ Although some officially appointed police officers worked at the OCRB during this period,²⁷² the Seleka stationed at the OCRB usurped the institution's regular structure and processes.²⁷³ The presence and control of the Seleka at the OCRB effectively rendered the career police officers stationed there powerless.²⁷⁴
99. Although according to documentation and witnesses, Louis MAZANGUE, himself a career police officer, was officially appointed as Director of the OCRB on 18 April 2013,²⁷⁵ and **SAID** was his deputy,²⁷⁶ career police officers based at the OCRB had to comply with SAID's orders.²⁷⁷ P-0787 states that **SAID** dictated what career police officers would investigate and what would be passed to the prosecutor.²⁷⁸ The police officers at the OCRB received orders from **SAID**²⁷⁹ and were working with the Seleka, although they were scared of them.²⁸⁰ P-0338 also explains that the police officers were not informed by ADAM or **SAID** of any operations, with only one exception.²⁸¹ While the police officers at OCRB investigated and created case files and also cooperated with

²⁶⁸ *Id.*, para. 95.

²⁶⁹ **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).

²⁷⁰ 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.

²⁷¹ **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.

²⁷² **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).

²⁷³ **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](#).

²⁷⁴ **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).

²⁷⁵ **Note de Service**: [CAR-OTP-2034-1740](#). See also **P-0435**: [CAR-OTP-2104-0954-R01](#) at 0966, para. 62 (Fr).

²⁷⁶ **P-1737**: [CAR-OTP-2130-2086-R01](#) at 2091, para. 24 (Fr).

²⁷⁷ **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).

²⁷⁸ **P-0787**: [CAR-OTP-2130-0893-R01](#) at 0902, para. 41 (Fr).

²⁷⁹ **P-2563**: [CAR-OTP-2130-4890-R01](#) at 4903-4907, lns. 405-529 (Fr).

²⁸⁰ **P-2563**: [CAR-OTP-2130-4890-R01](#) at 4903-4907, lns. 405-529 (Fr); **P-0787**: [CAR-OTP-2130-0893-R01](#) at 0902, para. 41 (Fr).

²⁸¹ **P-0338**: [CAR-OTP-2130-5761-R01](#) at 5778-5779, paras. 91, 96 (Fr).

the Prosecutors Office for ordinary crimes cases at OCB, they did not have access to the detention cells nor the prisoners detained in the underground cell under SAID's office.²⁸²

100. P-0338 and P-2105 – both [REDACTED] witnesses – describe that when ADAM came to the OCB, he would typically be briefed by SAID.²⁸³ P-0338 also states that SAID would ensure that the OCB Seleka were armed and ready for operations, in line with ADAM's instructions,²⁸⁴ and would ensure that ADAM's orders, including in relation to arrests, had been implemented.²⁸⁵ SAID received money from ADAM to supply to the OCB Seleka,²⁸⁶ and he reported about the activities of the OCB to ADAM.²⁸⁷
101. After the Seleka military advance and takeover of Bangui, in which SAID participated,²⁸⁸ he became a direct subordinate under ADAM,²⁸⁹ who was Minister of Public Security until 22 August 2013 and then Director of the CEDAD.²⁹⁰ From 31 March 2013, when ADAM was appointed Minister of Security,²⁹¹ the police — of which the OCB was a component — fell within ADAM's official remit.²⁹² Because of his position as Minister of Security, ADAM was in charge of the OCB – he had *de jure* and *de facto* authority.²⁹³

²⁸² **P-2478:** CAR-OTP-2110-0745-R01 at 0757, para. 50 (Fr). *See infra*, paras. 165-166.

²⁸³ **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).

²⁸⁴ **P-0338:** CAR-OTP-2130-5761-R01 at 5775, para. 71 (Fr).

²⁸⁵ **P-2105:** CAR-OTP-2078-0003-R01 at 0015, para. 73 (Fr).

²⁸⁶ **P-0338:** CAR-OTP-2130-5761-R01 at 5774, para. 68 (Fr).

²⁸⁷ **P-0338:** CAR-OTP-2130-5761-R01 at 5774, para. 65 (Fr).

²⁸⁸ **P-1176:** CAR-OTP-2127-7671-R01 at 7688, para. 93 (Fr); **FIDH REPORT:** CAR-OTP-2001-2890 at 2933-2934.

²⁸⁹ **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); **P-0413:** CAR-OTP-2013-0420-R01 at 0466, para. 357 (Fr); **FIDH REPORT:** CAR-OTP-2001-2890 at 2933; **P-0349:** CAR-OTP-2074-0041-R01 at 0051, para. 56 (Fr).

²⁹⁰ *See infra*, para. 112.

²⁹¹ **Decree 13.009:** CAR-OTP-2005-0404 at 0404.

²⁹² **P-0435:** CAR-OTP-2104-0954-R01 at 0959, paras. 21-22 (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, para. 64 (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; **P-0338:** CAR-OTP-2130-5761-R01 at 5779-5780, paras. 97-98 (Fr); **P-0435:** CAR-OTP-2104-0954-R01 at 0972, para. 104 (Fr), and Annex G at CAR-OTP-2017-0084.

²⁹³ **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).

While the Seleka assigned to duty at the OCB were not provided with formal police training,²⁹⁴ ADAM signed and issued Seleka membership identification cards to them.²⁹⁵

102. SAID's power at OCB flowed directly from ADAM. According to [REDACTED] witnesses and detainees alike, ADAM was present at the OCB on a regular basis,²⁹⁶ conducting a variety of activities, including: interrogating detainees,²⁹⁷ visiting detention cells,²⁹⁸ checking on detainees,²⁹⁹ distributing money or other goods to SAID and the OCB Seleka,³⁰⁰ bringing in recruits or detainees,³⁰¹ patrolling at night together with other OCB Seleka,³⁰² and holding meetings in the OCB's courtyard.³⁰³ During his visits, ADAM gave orders which were implemented,³⁰⁴ including on the release³⁰⁵ or torture of detainees,³⁰⁶ and punishment of his OCB Seleka subordinates.³⁰⁷ 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 will,³⁰⁸ or allowing their families to visit them,³⁰⁹ often in the face of mounting public

²⁹⁴ **P-1004**: CAR-OTP-2130-1736-R01 at 1742, para. 35; **P-1737**: CAR-OTP-2130-2086-R01 at 2092, para. 27 (Fr).

²⁹⁵ **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-2105**: CAR-OTP-2081-0037-R01 at 0053, para. 94, and Annex IV at CAR-OTP-2081-0066 (Fr).

²⁹⁶ **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 0204, para. 70 (Fr).

²⁹⁷ **P-0481**: CAR-OTP-2104-1024-R01 at 1041-1043, paras. 101-113; **P-2105**: CAR-OTP-2078-0003-R01 at 0015, para. 73 (Fr).

²⁹⁸ **P-0622**: CAR-OTP-2022-0121-R01 at 0129, paras. 64-66 (Fr).

²⁹⁹ **P-1737**: CAR-OTP-2130-2086-R01 at 2097, para. 52 (Fr).

³⁰⁰ **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).

³⁰¹ **P-0787**: CAR-OTP-2130-0893-R01 at 0903, para. 44 (Fr).

³⁰² **P-1429**: CAR-OTP-2043-0317-R01 at 0326, para. 65 (Fr).

³⁰³ **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).

³⁰⁴ **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).

³⁰⁵ **P-1429**: CAR-OTP-2043-0317-R01 at 0326, para. 68 (Fr); **P-0338**: CAR-OTP-2130-5761-R01 at 5786-5787 paras. 140-141 (Fr).

³⁰⁶ **P-1737**: CAR-OTP-2130-2086-R01 at 2098-2099, paras. 58, 60 (Fr).

³⁰⁷ **P-1737**: CAR-OTP-2130-2086-R01 at 2058, para. 56 (Fr).

³⁰⁸ See, e.g., **P-1289**: CAR-OTP-2127-7632-R01 at 7648-7650, paras. 81-92 (Fr).

³⁰⁹ **P-0481**: CAR-OTP-2104-1024-R01 at 1038-1039, paras. 82-83 (Fr)

pressure.³¹⁰ P-0787, a police officer, describes how ADAM intervened and resolved disputes,³¹¹ and gave orders over the phone when he was not physically present.³¹²

103. 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 date³¹³ and maintained *de facto* control of the OCRB until at least 30 August 2013 when the new Minister of Security BINOUA asked the Seleka to leave the OCRB premises.³¹⁴ 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.³¹⁵
104. In addition, ADAM and SAID cooperated regularly with other high-ranking Seleka regarding detentions at OCRB as of April 2013. Fadoul AL-BACHAR ("AL-BACHAR"), the deputy head of CEDAD,³¹⁶ Adoum RAKISS ("RAKISS"), the deputy head of the Police and Mahamat SALLET Adoum Kette, a Seleka General tasked with security issues, were senior Seleka leaders coordinating regularly and closely with SAID, DAMBOUCHA and TAHIR on arrests and bringing detainees to OCRB.³¹⁷
105. 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.³¹⁸

³¹⁰ 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).

³¹¹ **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).

³¹² **P-0787**: CAR-OTP-2130-0893-R01 at 0904, para. 46 (Fr); **P-0338**: CAR-OTP-2130-5761-R01 at 5776, para. 76 (Fr).

³¹³ 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.

³¹⁴ **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).

³¹⁵ **P-0622**: CAR-OTP-2022-0121-R01 at 0129-0130, para. 64-65, 70 (Fr); **P-0547**: CAR-OTP-2018-0389-R01 at 0397, 0401, 0406, paras. 50-52, 86, 117-123 (Fr).

³¹⁶ See *infra*, para. 114.

³¹⁷ See **P-1167**: CAR-OTP-2094-0002-R01 at 0014, 0015, 0017, paras. 76, 83, 94; See paras. 206-210.

³¹⁸ **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.³¹⁹

106. **SAID** left the OCRB on 30 August 2013, when DJOTODIA’s decision to remove the Seleka from the OCRB premises was implemented.³²⁰ 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.³²¹ 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.³²²

2. *SAID’s Role at CEDAD*

107. Both witness and documentary evidence supports that **SAID** acted as ADAM’s “operations commander” at the *Comité Extraordinaire pour la Défense des Acquis Démocratiques* (“CEDAD”) after the Seleka were removed from OCRB.
108. [REDACTED] witnesses describe that a number of the Seleka who had fallen under **SAID** and ADAM’s command at the OCRB were moved across to the CEDAD when the Seleka were removed from OCRB.³²³ This is also supported by documentary evidence.³²⁴
109. When the Seleka were ousted from OCRB on 30 August 2013, **SAID** became ADAM’s “operations commander”, with authority over the Seleka at the CEDAD.³²⁵ Among the colonels under **SAID’s** command were TAHIR, DAMBOUCHA, together with other Seleka colonels.³²⁶ **SAID** received and implemented orders from ADAM, who was the official head of the Seleka elements operating at CEDAD (“CEDAD-Seleka”). These

³¹⁹ **P-2504**: CAR-OTP-2107-8430-R01 at 8438, para. 43 (Fr).

³²⁰ **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. 97-138 (Fr) (commenting the same photos).

³²¹ **FIDH report**: CAR-OTP-2001-2769 at 2840; **P-0348**: CAR-OTP-2134-1558-R01 at 1563_01; P-0348: CAR-OTP-2134-1565 at 1566; **P-2478**: CAR-OTP-2110-0745-R01 at 0759 paras. 58-59 (Fr).

³²² **P-1167**: CAR-OTP-2127-7671-R01 at 7698, para. 151 (Fr).

³²³ **P-1004**: CAR-OTP-2130-1736-R01 at 1743, 1745, 1749-1751, paras. 32-33, 54-55, 81-82, 84-91, 94, 96-97, 101 (Fr); **P-1420**: CAR-OTP-2130-1827-R01 at 1844-1845, paras. 94-95 (Fr); **P-2105**: CAR-OTP-2078-0003-R01 at 0024, para. 128 (Fr); **P-2105**: CAR-OTP-2081-0037-R01 at 0047 para. 60 (Fr); **P-0664**: CAR-OTP-2104-0540-R01 at 0548, para. 63 (Fr).

³²⁴ **P-0787 Annex D**: CAR-OTP-2023-0646-R01 at 0647.

³²⁵ **P-2105**: CAR-OTP-2078-0003-R01 at 0024, para. 128 (Fr); **P-2105** CAR-OTP-2081-0037-R01 at 0047, para. 60 (Fr). See also **P-1007**: CAR-OTP-2130-6746-R01 at 6777-6779, 6787-6788, Ins. 1040-1113, 1415-1432 (Fr).

³²⁶ **P-2105**: CAR-OTP-2078-0003-R01 at 0025, para. 129 (Fr); **P-0853**: CAR-OTP-2062-0276-R01 at 0280, para. 23 (Fr); [REDACTED]: CAR-OTP-2023-0646-R01.

were recruited by SAID and organised into arrest patrols which SAID oversaw.³²⁷ ADAM and SAID would meet every day at CEDAD.³²⁸

110. The CEDAD was created by a Presidential Decree on 25 May 2013 to serve as an intelligence bureau under the jurisdiction of the Presidency.³²⁹ According to the decree, CEDAD's mandate was to preserve national security, collect internal and external information regarding the security of the state; preserve national economic and scientific potential; conduct searches, surveillance, exploitation, and analysis of information on national security; prevent terrorism; and fight against criminality and organised crime.³³⁰
111. CEDAD was the successor organisation of the *Bureau National de Documentation* ("BND"), which had operated under BOZIZE's regime and which the Seleka wanted to retain under the auspices of the Presidency. DJOTODIA ordered all civil servants who had previously worked under the Presidency to return to duty.³³¹ In addition, the Ministry of Security register shows that the CEDAD – though under the auspices of the Presidency – also requested and received staff from that Ministry.³³²
112. ADAM was appointed as Director-General of the CEDAD by Presidential Decree on 22 August 2013.³³³
113. After ADAM took over, the CEDAD offices were moved to a residential villa in a compound near the Air France premises.³³⁴ The compound was guarded and completely surrounded with high walls and could only be accessed through a metal front gate and a side entrance.³³⁵ Passers-by could not see the inside of the compound. Next to the villa

³²⁷ See *infra*, paras. 323-330. See **P-1007**: [CAR-OTP-2130-6792-R01](#) at 6829, lns. 1175-1262.

³²⁸ **P-2105**: [CAR-OTP-2078-0003-R01](#) at 0015, para. 70 (Fr).

³²⁹ **Investigation Report**: [CAR-OTP-2008-0566-R01](#); **CAR Decree No. 13.118**: [CAR-OTP-2004-1385](#) at 1417-1419; **CAR Decree No. 13.390**: [CAR-OTP-2010-0547](#); **CAR Decree No. 13.335**: [CAR-OTP-2004-1086](#) at 1099; **CAR Decree**: [CAR-OTP-2004-1086](#) at 1124; **P-2240**: [CAR-OTP-2110-0780-R01](#) at 0793, para. 44 (Fr); **P-1732**: [CAR-OTP-2091-0381-R01](#) at 0392, para. 68.

³³⁰ **CAR Decree No. 13.118**: [CAR-OTP-2004-1385](#) at 1417-1419.

³³¹ **P-2181**: [CAR-OTP-2130-5731-R01](#) at 5734, para. 16 (Fr). See also **P-3029**: [CAR-OTP-2127-9802-R01](#) at 9805-9506, paras. 15-18 (Fr); [CAR-OTP-2034-2388](#) at 2389; [CAR-OTP-2034-2388](#) at 2390; **P-0760**: [CAR-OTP-2023-0594](#).

³³² [CAR-OTP-2031-0684](#) at 0733 (Nr. 0564: MOPS Incoming request from the Director of CEDAD for police officers for CEDAD dated 16 July 2013); [CAR-OTP-2031-0456](#) at 0494 (MOPS Transmission Register, 24/07/13, message porte/ Mise a disposition de la CEDAD des elements).

³³³ **CAR Decree 13.297**: [CAR-OTP-2005-0368](#); [CAR-OTP-2064-0256](#).

³³⁴ **P-0887**: [CAR-OTP-2130-1686-R01](#) at 1693, paras. 40-41 (Fr); **P-2181**: [CAR-OTP-2130-5731-R01](#) at 5736, para. 24 (Fr); **P-2297**: [CAR-OTP-2127-9435-R01](#) at 9441-9442, paras. 31-32 (Fr); **P-3031** (screening): [CAR-OTP-2125-0790-R01](#) at 0792.

³³⁵ **FSS Photos**: [CAR-OTP-2033-5393](#); [CAR-OTP-2033-5402](#); **P-0760**: [CAR-OTP-2130-0792-R01](#) at 0800-0801, para. 49-50 (Fr) and Annex E: [CAR-OTP-2023-0600](#); **P-1420**: [CAR-OTP-2130-1827-R01](#) at 1843, para. 86 (Fr); **P-0500**: [CAR-OTP-2122-3490-R01](#) at 3503-3504, para. 47 (Fr); **P-0789**: [CAR-OTP-2130-0820-R01](#) at

inside the compound to the left hand side was a low brick building with several small rooms stretched along the wall. All staff from the former BND/CEDAD operating at the Presidential Palace were moved to the new location of CEDAD.³³⁶

114. ADAM's *de jure* deputy was AL-BACHAR who had been appointed to CEDAD by DJOTODIA on 7 June 2013.³³⁷ Together with a number of intelligence career officers ("civil servants") he was in charge of different sections of the CEDAD administration. These sections dealt with intelligence work, including research, analysis, administrative tasks and combatting terrorist threats.³³⁸ The CEDAD budget came under the Presidency,³³⁹ but ADAM controlled the bank account.³⁴⁰
115. On 30 September 2013, DJOTODIA reorganised the CEDAD.³⁴¹ On 2 October 2013, civil servants – some of which had previously been assigned to the Presidency³⁴² - were officially appointed by Presidential decree to fill the functions in the divisions outlined in the previous decrees at the CEDAD.³⁴³
116. In addition to leadership civil servants, other agents [REDACTED] joined the CEDAD.³⁴⁴

0826, para. 34 (Fr) and Annex B: CAR-OTP-2023-0643; **P-1004**: CAR-OTP-2130-1736-R01 at 1745, para. 54 (Fr); **P-0887**: CAR-OTP-2130-1686-R01 at 1693, para. 40-41(Fr); **P-0658**: CAR-OTP-2122-3615-R01 at 3620, para. 29 (Fr).

³³⁶ **P-2181**: CAR-OTP-2130-5731-R01 at 5736, para. 24 (Fr).

³³⁷ **CAR Decree No. 13.139**: CAR-OTP-2004-1926; **P-0384**: CAR-OTP-2106-0314-R01 at 0332-0333, para. 77 (Fr); **P-0964**: CAR-OTP-2092-3594 at 3621, 3625-3628, Ins. 1020-1105 (Eng); **P-3032** (screening): CAR-OTP-2130-4309-R01 at 4311.

³³⁸ **P-0853**: CAR-OTP-2062-0276-R01 (Fr); **P-0853 Annex**: CAR-OTP-2062-0293-R01; **P-0760**: CAR-OTP-2130-0792-R01 at 0805-0806 (Fr); **DECRET No. 13.397**: CAR-OTP-2008-0448 at 0450 (Eng); **CAR Decree No. 13.397**: CAR-OTP-2070-0189 at 0191. *See* CAR-OTP-2058-0765 at 0766; CAR-OTP-2008-0566-R01 at 0570; CAR-OTP-2023-0602-R01 at 0602; **P-0789**: CAR-OTP-2023-0621-R01 at 0627, paras. 41-45; **P-0789 Annex B**: CAR-OTP-2023-0643.

³³⁹ **P-0384**: CAR-OTP-2106-0314-R01 at 0331, para. 69 (Fr); CAR-OTP-2101-2139 at 2140.

³⁴⁰ **Ecobank documents**: CAR-OTP-2064-0253; CAR-OTP-2064-0266; CAR-OTP-2064-0257; CAR-OTP-2064-0259; CAR-OTP-2064-0264.

³⁴¹ **CAR Decree 13.390**: CAR-OTP-2010-0547 at 0548.

³⁴² **P-0760**: CAR-OTP-2130-0792-R01 at 0817 (Fr).

³⁴³ **CAR Decree 13.397**: CAR-OTP-2008-0448; **Certificat de Prise de Service**: CAR-OTP-2058-0765; **MOPS Order**: CAR-OTP-2034-2493; **P-1004**: CAR-OTP-2130-1736-R01 at 1745, para. 59 (Fr); *see* **P-0853**: CAR-OTP-2062-0276-R01 at 0279-0280, paras. 19-23 (Fr); **P-0853**: CAR-OTP-2062-0293-R01, *see* also **Decree 13.435**: CAR-OTP-2004-1086 at 1099.

³⁴⁴ *See* **P-0853 Annex**: CAR-OTP-2062-0293-R01; **P-0787 Annex D**: CAR-OTP-2023-0646-R01 at 0647; **Note de Service**: CAR-OTP-2023-0644-R01; **P-3031** (screening): CAR-OTP-2125-0790-R01 at 0792; **P-3029** (screening): CAR-OTP-2125-0809-R01 at 0811; **P-3026** (screening): CAR-OTP-2130-4314-R01 at 4316; **P-3030** (screening): CAR-OTP-2130-4540-R01 at 4542-4543. Not all agents had their own offices in the villa, but worked in the corridors and living room of the villa or outside the CEDAD compound. Some also participated in interrogations, *see* **P-0853**: CAR-OTP-2062-0276-R01 at 0285, para. 53 (Fr), **P-0789**: CAR-OTP-2130-0820-R01 at 0825-0826, paras. 30-31 (Fr); **Note de Service**: CAR-OTP-2023-0484.

117. ADAM had an office within the CEDAD compound,³⁴⁵ where he was present nearly every day³⁴⁶ and sometimes stayed overnight.³⁴⁷ ADAM wielded control over the Seleka at the CEDAD by brutally punishing them for perceived infractions or insubordination.³⁴⁸ [REDACTED] witnesses state that CEDAD was staffed primarily by Seleka from ADAM's Runga ethnic group, and senior Seleka at the CEDAD were known to be close associates of ADAM.³⁴⁹

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

1. Overview

118. From at least 12 April 2013 until 30 August 2013, the Seleka under SAID's command targeted perceived BOZIZE supporters by arresting, detaining and mistreating them at the OCRB compound. At OCRB, the detention conditions were dire as the detainees were held in cramped cells, not provided with adequate food, water or regular adequate and independent medical attention. In addition, they were physically and mentally mistreated and some were even tortured. The detainees were detained arbitrarily, deprived of their right to prompt independent review of the basis of their detention and other fundamental due process rights. In at least one case, a man who had been arrested and detained was killed by the men under SAID's command with his participation.

2. Incidents at OCRB

119. SAID is charged with the crimes as summarized in paragraph 33 of the DCC. These incidents are based on the following oral and written evidence:³⁵⁰

³⁴⁵ **P-1004:** [CAR-OTP-2130-1736-R01](#) at 1745, para. 56 (Fr); **P-0760:** [CAR-OTP-2130-0792-R01](#) at 0802, paras. 57-58 (Fr); **P-0789:** [CAR-OTP-2130-0820-R01](#) at 0827, para. 40 (Fr); **P-0500:** [CAR-OTP-2122-3490-R01](#) at 3509, para. 82 (Fr); **P-2105:** [CAR-OTP-2081-0037-R01](#) at 0046, para. 50 (Fr).

³⁴⁶ **P-1004:** [CAR-OTP-2130-1736-R01](#) at 1745, para. 56 (Fr); **P-0789:** [CAR-OTP-2130-0820-R01](#) at 0831, para. 66 (Fr); **P-0760:** [CAR-OTP-2130-0792-R01](#) at 0806, para. 77 (Fr); **P-2105:** [CAR-OTP-2078-0003-R01](#) at 0023, para. 120 (Fr).

³⁴⁷ **P-0789:** [CAR-OTP-2130-0820-R01](#) at 0829, 0831, paras. 55, 66 (Fr).

³⁴⁸ **P-0500:** [CAR-OTP-2122-3490-R01](#) at 3507-3508, paras. 69, 73 (Fr).

³⁴⁹ **P-1004:** [CAR-OTP-2130-1736-R01](#) at 1747, para. 70 (Fr).

³⁵⁰ The material facts as they have been summarised for each sub-incident in the DCC are included here by reference.

a) 2 men tied up using the *arbatachar* method

120. The detention of the two prisoners tied up using the *arbatachar* method outlined in paragraph 33.a of the DCC is based on P-1167's account, [REDACTED].³⁵¹

b) P-1289

121. The arrest and detention of P-1289 outlined in paragraph 33.b of the DCC is based on his personal account.³⁵² He was detained in one of the small windowless cells in the yard of the OCRB.³⁵³ [REDACTED], P-1289 was [REDACTED].³⁵⁴ P-1737, [REDACTED], recognised [REDACTED] P-1289 [REDACTED].³⁵⁵

c) P-0481

122. The incident relating to the arrest and detention of P-0481 as summarised in paragraph 33.c of the DCC is based on his personal account.³⁵⁶ It is corroborated by written evidence; notably, a complaint filed to CMDE [REDACTED].³⁵⁷ During the time of his detention at the OCRB, SAID was in charge and oversaw all dealings with prisoners, including the detention of P-0481.

d) P-2692

123. The arrest and detention of P-2692 as summarised in paragraph 33.d of the DCC is based on his personal statement as well as corroborating documentary evidence.³⁵⁸ While P-2692 does not mention "SAID" he refers to the "OCRB Colonel" and gives a detailed physical description that corresponds with SAID.³⁵⁹

³⁵¹ **P-1167:** CAR-OTP-2094-0002-R01 at 0024-0025, paras. 138-145 (Eng.)

³⁵² **P-1289:** CAR-OTP-2127-7632-R01 at 7641, para. 43, 7643, para. 53 (Fr).

³⁵³ **P-1289:** CAR-OTP-2127-7632-R01 at 7643, para. 53 (Fr).

³⁵⁴ **P-1289:** CAR-OTP-2127-7632-R01 at 7648-7650, paras. 81-90 (Fr).

³⁵⁵ **P-1737:** CAR-OTP-2130-2086-R01 at 2100, para. 64 (Fr).

³⁵⁶ **P-0481:** CAR-OTP-2104-1024-R01 at 1034-1039, paras. 49-61, 79, 84-86, 117-121 (Fr).

³⁵⁷ CAR-OTP-2005-2526-R01; CAR-OTP-2018-0566-R01.

³⁵⁸ **P-2692:** CAR-OTP-2125-0922-R01 at 0924-0930, paras. 12-40 (Eng); CAR-OTP-2125-0934-R01 at 0935 (liberation note signed by SAID).

³⁵⁹ **P-2692:** CAR-OTP-2125-0922-R01 at 0926-0929, paras. 22-39 (Eng);

e) P-0645

124. The incident related to P-0645 as summarised in paragraph 33.e of the DCC is based on the account of P-0481³⁶⁰ as well as corroborating documentary evidence,³⁶¹ including from P-0645 himself.

f) P-0622

125. The description of the arrest, detention and mistreatment of P-0622 and his [REDACTED] colleagues as summarized in paragraph 33.f of the DCC is based on his personal account.³⁶² During their detention, two detainees died in the cell and one detainee was tied up in *arbatachar*.³⁶³

g) Detention and Torture of three pro-BOZIZE supporters³⁶⁴

126. The incident summarised in paragraph 33.g of the DCC is based on the personal account of P-0481 who was an eye-witness to the torture (through use of the *arbatachar* method) and killing.³⁶⁵ P-0481 alleges that [REDACTED]. P-0481 states that it was a Seleka Colonel named “Zakaria” who ordered the killing. The register of the *Tribunal de Grande Instance* indicates that a Seleka named TAKADJI and ZAKARIA were arrested and detained at the OCRB for murder.³⁶⁶

h) Arrest and detention of the FACA soldier [REDACTED]³⁶⁷

127. The evidence in support of the incident as summarized in paragraph 33.h of the DCC related to the arrest, detention and mistreatment of the FACA soldier [REDACTED]

³⁶⁰ **P-0481**: CAR-OTP-2104-1024-R01 at 1039, para. 86 (Fr).

³⁶¹ See CAR-OTP-2020-0161 at 0161; CAR-OTP-2034-0207; **P-0645** Annex 3: CAR-OTP-2083-0059; CAR-OTP-2083-0061 at 0063; **P-0645**: CAR-OTP-2083-0033-R01 at 0041-0053, paras. 48-122 (Fr) (unsigned statement); **P-1429**: CAR-OTP-2043-0317-R01 at 0325-0326, paras. 55-66 (Fr); CAR-OTP-2100-8730 (communication messages).

³⁶² **P-0622**: CAR-OTP-2022-0121-R01 at 0129, para. 59-62 (Fr).

³⁶³ **P-0622**: CAR-OTP-2022-0121-R01 at 0129, 0131, paras. 64, 85 (Fr).

³⁶⁴ This incident is not charged as murder as a war crime or as a crime against humanity because no human remains have been uncovered to prove that these men are actually dead. As the victims are not known so far, further enquiries into this issue with a reasonable prospect of uncovering that evidence are not likely.

³⁶⁵ **P-0481**: CAR-OTP-2104-1024-R01 at 1040-1041, paras. 93-100 (Fr).

³⁶⁶ See **TGI register**: CAR-OTP-2008-2415 at 2499, ln. 506 [ZAKARIA’s full name is stated as Zakaria YOUSOUF].

³⁶⁷ This incident is not charged as murder as a crime against humanity or as a war crime because it cannot be sufficiently established on the basis of the available evidence that **SAID** had the requisite intent and knowledge that [REDACTED] was to be killed or would be killed by the OCRB Seleka in the ordinary course of events. [REDACTED] (see **P-3039**: CAR-OTP-2125-0773); [REDACTED].

is based on the statements provided by P-2504,³⁶⁸ [REDACTED] to the detention of [REDACTED] by OCRB-Seleka, which included SAID, [REDACTED].³⁶⁹ The date of the arrest is based on the account of P-2607, [REDACTED].³⁷⁰ The death certificate confirms that [REDACTED] died from a bullet shot to his head.³⁷¹

i) Flyers-Incident

128. The arrest, detention and severe mistreatment of the Flyers-detainees outlined in paragraph 33.i of the DCC is based on the accounts of the victims,³⁷² who have been interviewed and/or screened, as well as P-2069, [REDACTED].³⁷³ Media reporting at the time corroborates the accounts of the witnesses.³⁷⁴

j) P-1429

129. The incident regarding the arrest and detention of P-1429 and [REDACTED] as summarised in paragraph 33.j of the DCC is based on his witness account³⁷⁵ as well as P-0787, [REDACTED].³⁷⁶ There is additional evidence that the *Camp des Sapeurs-Pompiers* in Bangui was controlled by Seleka General Moussa ASSIMEH at the time.³⁷⁷

³⁶⁸ **P-2504**: CAR-OTP-2107-8430-R01 at 8439-8440, paras. 48-54 (Fr).

³⁶⁹ **P-2607**: CAR-OTP-2127-9527-R01 at 9531-9532, paras. 20-22 (Fr);

³⁷⁰ **P-2607**: CAR-OTP-2127-9527-R01 at 9530, para. 15 (Fr).

³⁷¹ CAR-OTP-2116-0994.

³⁷² **P-0923**: CAR-OTP-2130-1719-R01 at 1725-1726, paras. 33-39 (Fr); **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 (Fr); **P-2257**: CAR-OTP-2130-5386-R01 at 5389-5391, paras. 12-25 (Fr); **P-2293**: CAR-OTP-2130-5668-R01 at 5671-5673, paras. 13-23 (Fr); CAR-OTP-2005-1917-R01 at 1919-1926; **P-2263**: CAR-OTP-2130-6271-R01 at 6274-6276, paras. 13-30 (Fr); **P-2253**: CAR-OTP-2130-5793-R01 at 5797-5798, paras. 18-30 (Fr); **P-1675**: CAR-OTP-2091-0054-R01 at 0056-0059, paras. 13-27 (Fr); **P-2279**: CAR-OTP-2130-4660-R01 at 4663-4666, paras. 17-32.

³⁷³ **P-2069**: CAR-OTP-2107-5504-R01 at 5512-5519, lns. 279-521 (Fr); CAR-OTP-2091-2198-R01 at 2200-2205, lns. 50-261 (Fr); CAR-OTP-2091-2413-R01 at 2434-2441, lns. 769-1048 (Fr); CAR-OTP-2091-2442-R01 at 2443-2446, lns. 1-150 (Fr); CAR-OTP-2107-5480-R01 at 5487-5488, lns. 233-258 (Fr); CAR-OTP-2107-5525-R01 at 5538-5554, lns. 421-1015 (Fr); CAR-OTP-2107-5555-R01 at 5556 - 5568, lns. 1-445 (Fr); CAR-OTP-2107-5569-R01 at 5570-5597, lns. 1 - 996 (Fr); CAR-OTP-2107-5598-R01 at 5599 - 5609, lns. 1 - 395 (Fr); CAR-OTP-2107-5619-R01 at 5620-5622, lns. 1-77, at 5628-5641, lns. 283-750 (Fr); CAR-OTP-2107-5720-R01 at 5721-5728, lns. 1-260 (Fr); CAR-OTP-2107-5795-R01 at 5801, lns. 193-194 (Fr); CAR-OTP-2107-5860-R01 at 5861-5873, lns. 1-445; P-2069 (Annex 3): CAR-OTP-2109-0216; **P-2069** Photos: CAR-OTP-2109-0256; CAR-OTP-2109-0265 to CAR-OTP-2109-0279; CAR-OTP-2109-0576 to CAR-OTP-2109-0578; CAR-OTP-2109-0595 to CAR-OTP-2109-0610; CAR-OTP-2084-2577; CAR-OTP-2084-2578.

³⁷⁴ CAR-OTP-2074-0336; CAR-OTP-2088-2811; CAR-OTP-2074-0715; CAR-OTP-2074-0715 at 0719; **Radio Communiqué**: CAR-OTP-2034-2344 at 2345.

³⁷⁵ **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.

³⁷⁶ **P-0787**: CAR-OTP-2130-0893-R01 at 0912-0913, paras. 83-85 (Fr).

³⁷⁷ **P-1762**: CAR-OTP-2130-2147-R01 at 2154-2155, paras. 31-38 (Fr); **P-1521**: CAR-OTP-2102-0131-R01 at 0136, para. 24 (Fr); **P-1420**: CAR-OTP-2130-1827-R01 at 1846, para. 101 (Fr).

k) Attempted arrest of Oswald SANZE and detention of two other men³⁷⁸

130. The incident summarised in paragraph 33.k of the DCC concerning the attempted arrest of the FACA member Oswald SANZE and the subsequent arrest and detention of two [REDACTED] by OCRB-Seleka elements under SAID's orders is based on the account of P-2105³⁷⁹ as well as other witnesses, [REDACTED].³⁸⁰ The OCRB-Seleka element P-2105 named as being in charge of the operation under SAID is Mohamar OUMAR BARKADJA. He is also identified as Lieutenant OCRB Seleka in a Ministry of Security correspondence signed by ADAM,³⁸¹ and listed as a Seleka who was integrated into the FACA in a CAR Defense Ministry decision of 10 October 2013³⁸² and is assigned to the OCRB in other sources.³⁸³ On 17 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].³⁸⁴

l) P-2172

131. The incident relating to the arrest and detention of P-2172 as summarized in paragraph 33.l of the DCC is based on his personal account.³⁸⁵

m) P-2519

132. The arrest and detention of P-2519 as summarized in paragraph 33.m of the DCC is based on his personal account.³⁸⁶ During the time of P-2519's detention at the OCRB, SAID was in charge and oversaw all dealings with prisoners.

³⁷⁸ SAID is not charged with the murder of Oswald SANZE as a crime against humanity or as a war crime for this incident as there is insufficient evidence regarding his intent and knowledge that SANZE was to be killed or would have been killed in the ordinary course of events.

³⁷⁹ P-2105: CAR-OTP-2081-0037-R01 at 0043, para. 30 (Fr).

³⁸⁰ P-2931 (screening): CAR-OTP-2127-3789 at 3791; P-2890 (screening): CAR-OTP-2128-0538-R01 at 0540-0542; P-2890: CAR-OTP-2128-0750-R01 (Complaint); P-1885: CAR-OTP-2077-0546-R01 at 0548-0549, paras. 12-14 (Eng).

³⁸¹ CAR-OTP-2034-3096.

³⁸² CAR-OTP-2067-0120.

³⁸³ CAR-OTP-2069-0332; CAR-OTP-2081-0062-R01; CAR-OTP-2100-0825; CAR-OTP-2100-0920.

³⁸⁴ **Ledger of Hôpital Communautaire:** CAR-OTP-2044-0734 at 0790; **Media Article:** CAR-OTP-2074-0080 at 0084.

³⁸⁵ P-2172: CAR-OTP-2130-6313-R01 at 6316-6317, paras. 15-22; **Media article:** CAR-OTP-2074-0366. See also P-1429: CAR-OTP-2043-0317-R01 at 0326, para. 68 (Fr.).

³⁸⁶ P-2519: CAR-OTP-2130-5310-R01 at 5316-5324, paras. 34-88 (Fr).

n) P-3053, P-3056 and two other men

133. The incident described in paragraph 33.n of the DCC is based on the account provided by P-3053,³⁸⁷ and P-3056³⁸⁸, [REDACTED].³⁸⁹ P-3053 and P-3056 were arrested with two other individuals.³⁹⁰

o) [REDACTED]

134. The incident described in paragraph 33.o of the DCC relating to the detention of a [REDACTED] is based on the account of P-1737, [REDACTED].³⁹¹

p) P-0547

135. The summary regarding the arrest, detention and torture of P-0547 as described in paragraph 33.p of the DCC is based on his personal accounts³⁹², photographic documentation,³⁹³ medical reports³⁹⁴ as well as the accounts of other witnesses.³⁹⁵ His account is corroborated by documentary evidence including [REDACTED].³⁹⁶ Other witnesses describe being detained at the same time with him like P-1432. P-0547 names TAHIR, YAYA and SAID.³⁹⁷ P-0547 also identified AL BACHAR in a photo.³⁹⁸ P-0547 was detained in the underground cell with other men, [REDACTED]³⁹⁹ who was P-1762⁴⁰⁰, [REDACTED] who is P-3053⁴⁰¹,

³⁸⁷ **P-3053**: CAR-OTP-2130-6359-R01 at 6362-6368, paras. 16-53. incl. Annex A-C.

³⁸⁸ **P-3056**: CAR-OTP-2130-6639-R01 at 6644, para. 27, at 6649, para. 51 (Fr).

³⁸⁹ **P-3056**: CAR-OTP-2130-6639-R01 at 6643-6651, paras. 20-65 (Fr.); Annex C: CAR-OTP-2130-6657-R01.

³⁹⁰ **P-3056**: CAR-OTP-2130-6639-R01 at 6649, para. 51 (Fr); **P-3053**: CAR-OTP-2130-6359-R01 at 6363, 6365-6366, paras. 24, 39-41 (Fr).

³⁹¹ **P-1737**: CAR-OTP-2130-2086-R01 at 2098-2099, paras. 58-59 (Fr).

³⁹² **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).

³⁹³ 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.

³⁹⁴ **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.

³⁹⁵ **P-0787**: CAR-OTP-2130-0893-R01 at 0908, paras. 61-62 (Fr); **P-0338**: CAR-OTP-2130-5761-R01 at 5783, 5784, paras. 121-122 (Fr); **P-1432**: CAR-OTP-2050-0172-R01 at 0178, para. 45 (Fr).

³⁹⁶ **Materials French Defence Ministry**: CAR-OTP-2102-0614-R01 at 0615; **Photos**: CAR-OTP-2102-0637-R01.

³⁹⁷ **P-0547**: CAR-OTP-2018-0389-R01 at 0408, para. 137 (Fr).

³⁹⁸ **P-0547**: CAR-OTP-2018-0389-R01 at 0412, para. 170 (Fr); **P-0547 Annex 6**: CAR-OTP-2018-0431; CAR-OTP-2078-0292-R01 at 0295, para. 12; P-0547 Photos: CAR-OTP-2018-0431; CAR-OTP-2018-0443; CAR-OTP-2018-0445.

³⁹⁹ **P-0547**: CAR-OTP-2018-0389-R01 at 0399, para. 73 (Fr).

⁴⁰⁰ **P-1762**: CAR-OTP-2130-2147-R01 at 2157-2165, paras. 47-88 (Fr).

⁴⁰¹ **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 (Note: [REDACTED]).

[REDACTED]⁴⁰², [REDACTED]⁴⁰³, [REDACTED]⁴⁰⁴ [REDACTED].⁴⁰⁵ He states that there was also a dead body in the underground cell.⁴⁰⁶

q) P-2179

136. The arrest and detention of P-2179 as summarized at paragraph 33.q of the DCC is based on his personal account.⁴⁰⁷ The witness provides several photographs documenting injuries he sustained during his detention.⁴⁰⁸ P-2179 states that he was detained with five other [REDACTED] who had been tied in the *arbatachar* method during their detention at OCRB.⁴⁰⁹

r) P-1432 and P-1762

137. The incident as summarised in paragraph 33.r of the DCC relating to P-1432⁴¹⁰ and P-1762⁴¹¹ is based on their personal accounts. P-1432 provided judicial documents from his proceedings.⁴¹² P-1432 also provided a sketch of the OCRB compound.⁴¹³ [REDACTED].⁴¹⁴

s) [REDACTED]

138. The incident concerning the arrests and detention of P-2400, P-2241 and P-2239 as described in paragraph 33.s of the DCC is based on the accounts of the victims themselves as well as [REDACTED] (P-2337) who all corroborate each other.⁴¹⁵

⁴⁰² **P-0547:** CAR-OTP-2078-0292-R01 at 0299, para. 32 (Fr).

⁴⁰³ **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).

⁴⁰⁴ **P-0547:** CAR-OTP-2018-0389-R01 at 0399, paras. 67-68 (Fr).

⁴⁰⁵ **P-0547:** CAR-OTP-2018-0389-R01 at 0406, para. 118 (Fr); **P-0547:** CAR-OTP-2078-0292-R01 at 0299, para. 33 (Fr).

⁴⁰⁶ **P-0547:** CAR-OTP-2018-0389-R01 at 0398, para. 66 (Fr).

⁴⁰⁷ **P-2179:** CAR-OTP-2130-2342-R01 (Fr). 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.

⁴⁰⁸ 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.

⁴⁰⁹ **P-2179:** CAR-OTP-2130-2342-R01 at 2359, 2362, paras. 76, 90 (Fr).

⁴¹⁰ **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.

⁴¹¹ **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.

⁴¹² **P-1432 Annex 6:** CAR-OTP-2050-0187-R01; **Annex 7:** CAR-OTP-2050-0188; **Annex 8:** CAR-OTP-2050-0189.

⁴¹³ **P-1432 Annex 5:** CAR-OTP-2050-0190.

⁴¹⁴ **P-1762:** CAR-OTP-2130-2147-R01 at 2156, para. 44 (Fr).

⁴¹⁵ **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

They were arrested and detained with a [REDACTED] of P-2239 and met [REDACTED] who was tied in *arbatachar* and detained in the underground cell.⁴¹⁶

t) Other underground cell detentions

139. The detentions of other men in the underground cell as described in paragraph 33.t of the DCC are based on the accounts of P-2105, P-2240, P-2563.⁴¹⁷ [REDACTED].⁴¹⁸ [REDACTED].⁴¹⁹ [REDACTED]⁴²⁰ [REDACTED].⁴²¹

3. Legal Classification of the Material Facts

140. The incidents referenced above and summarized in the DCC in paragraph 33 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 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)).

a) COUNT 1: Crime of imprisonment or other severe deprivation of physical liberty (article 7(1)(e))

aa. Legal Elements

141. **SAID** is charged with the crime of imprisonment under article 7(1)(e) in Count 1 of the DCC.

142. 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

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).

⁴¹⁶ **P-2239**: CAR-OTP-2130-4729-R01 at 4741, 4743, paras. 47-48, 57 (Fr).

⁴¹⁷ **P-2105**: CAR-OTP-2078-0003-R01 at 0018, 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 4926, lns. 425-451; **P-2563**: CAR-OTP-2130-5981-R01 at 5987, lns. 189-204 (Fr).

⁴¹⁸ **P-2105**: CAR-OTP-2078-0003-R01 at 0018, paras. 89, 96 (Fr).

⁴¹⁹ **P-2240**: CAR-OTP-2110-0780-R01 at 0788-0789, para. 29 (Fr).

⁴²⁰ **P-2563**: CAR-OTP-2130-4911-R01 at 4926, lns. 425-451 (Fr).

⁴²¹ **P-2563**: CAR-OTP-2130-5981-R01 at 5987, lns. 189-204 (Fr).

law; (iii) the perpetrator was *aware* of the factual circumstances that established the *gravity* of the conduct.⁴²² Imprisonment includes the captivity of a person in an enclosed environment such as a prison, in violation of fundamental rules of international law, such as the absence of any legal basis for the detention or the denial of procedural rights.⁴²³

143. No particular duration of the deprivation of liberty is required to establish the necessary gravity, which can also be shown by factors such as incommunicado detention, physical abuse, denial of prompt medical treatment, and lack of timely and independent review of the lawfulness of the detention. Even where arrests and detentions were initially carried out on lawful grounds, such detentions may turn unlawful if detainees are deprived of fundamental rights.⁴²⁴
144. In armed conflict, international humanitarian law (“IHL”) may be *lex specialis* in determining the deprivations of liberty that may be permitted.⁴²⁵ It remains controversial whether security internment is directly permitted by IHL in non-international armed conflicts.⁴²⁶ Yet even if this is so, and consistent with common

⁴²² 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.

⁴²³ *Id.*

⁴²⁴ *Id.*

⁴²⁵ 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.

⁴²⁶ 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

article 3 of the Geneva Conventions and articles 4(1) and 5 of Additional Protocol II, internees have an absolute — indeed, fundamental⁴²⁷ — entitlement to humane treatment, including in the conditions of their captivity.⁴²⁸ Internment must not be arbitrary: 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), and may not be used solely for the purpose of interrogation or intelligence gathering, as a punishment, or as a general deterrent.⁴²⁹ 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.⁴³⁰

bb. Material Facts

i. Seleka sidelined professional career police officers at OCRB

145. Before the Seleka took power in Bangui, the OCRB was an official pre-trial detention center. The OCRB continued to be used to hold persons suspected of ordinary crimes,⁴³¹ including Seleka elements.⁴³² But not exclusively so.

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).

⁴²⁷ *See* Dörmann, pp. 349-352.

⁴²⁸ *See further* *Thaçi* 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 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.

⁴²⁹ ICRC, *Internment* Opinion Paper, pp. 8-9. *See also* ICRC, *Updated Commentary on Third Geneva Convention*, mn. 759; Dörmann, pp. 356-357.

⁴³⁰ 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).

⁴³¹ **P-2563**: [CAR-OTP-2118-2856-R01](#) at 2867, lns. 354-381; [CAR-OTP-2130-4890-R01](#) at 4902-4903, lns. 375-385 (Fr); [CAR-OTP-2118-2876-R01](#) at 2881, lns. 143-149; [CAR-OTP-2130-4911-R01](#) at 4917, lns. 155-164 (Fr).

⁴³² **P-2563**: [CAR-OTP-2118-2876-R01](#) at 2881, lns. 152-164; [CAR-OTP-2130-4911-R01](#) at 4917, lns. 167-169 (Fr).

146. Formally, the OCRB was headed by the judicial police and cases were overseen by career police officers/*gendarmes*.⁴³³ The Prosecutor General in Bangui also had access to the OCRB.⁴³⁴ Yet in practice Seleka elements carried out arrests even though they had no formal authority under CAR law to do so, and sidelined the career police officers/*gendarmes*.⁴³⁵ The detainees were held in cells rarely accessible to career police officers allowing the OCRB Seleka to evade standard procedures.⁴³⁶

ii. Victims were unlawfully imprisoned at the OCRB

147. Persons held in the OCRB compound by the Seleka were deprived of their liberty, amounting to imprisonment, because the OCRB compound was not publicly accessible and surrounded by high walls.⁴³⁷ Once brought there, it was not possible for a person to leave without permission of SAID and the OCRB-Seleka. The OCRB had six cells in total⁴³⁸ for the physical confinement of detainees. In addition, the Seleka used an underground cell for the detention of some victims.⁴³⁹

148. 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.⁴⁴⁰ According to witness statements these persons were predominantly from the

⁴³³ **P-2478**: CAR-OTP-2110-0745-R01 at 0755-0758, paras. 42-52.

⁴³⁴ **P-2478**: CAR-OTP-2110-0745-R01 at 0759, para. 60.

⁴³⁵ See *supra*, paras. 98-99.

⁴³⁶ **P-0547**: CAR-OTP-2025-0566-R01 at 0575-0577, paras. 55, 63, 75 (Eng.); **P-0481**: at 0539, paras. 58-59; **P-1289**: at 0369, paras. 58-59. See also **P-0787**: at 0422-0423, paras. 57-59; **P-1737**: at 0143-0144, para. 38; **P-1762**: at 0578, paras. 60-61; **P-0338**: at 0263, 0265-0266, paras. 111, 120, 128; **P-2105**: CAR-OTP-2083-0003-R01 at 0006, paras. 11-12 (Eng.).

⁴³⁷ **FSS Photos**: CAR-OTP-2062-0743-R01 at 0755, 0757, 0758, 0766, 0767 and 0768.

⁴³⁸ **FSS Photos**: CAR-OTP-2062-0743-R01 (Fr); Cell G1 at 0853: CAR-OTP-2033-7000, CAR-OTP-2033-7001, CAR-OTP-2033-7003, CAR-OTP-2033-7009, CAR-OTP-2033-7013; Cell G2 at 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 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 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: 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 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 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.

⁴³⁹ See *infra*, para. 163; see also **FSS Report**: CAR-OTP-2062-0743-R01 at 0846.

⁴⁴⁰ **P-0338**: CAR-OTP-2130-5761-R01 at 5782, paras. 113-114 (Fr).

Gbaya,⁴⁴¹ Banda⁴⁴² and Mandja⁴⁴³ tribes, or were Christian⁴⁴⁴, or thought to be affiliated or supportive of BOZIZE, or FACA or former presidential guards, and predominantly male.⁴⁴⁵ The conditions in which they were held were inhumane.

(1) Deprivation of fundamental rights

149. The persons arrested or detained by the Seleka mentioned in paragraph 33 of the DCC were arrested or detained on an arbitrary basis and without prompt review by an independent and impartial authority. There was no sufficient assessment 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. None of the rights afforded to internees under IHL were respected. The arrests and detentions conducted of these persons were unlawful as the deprivation of individual liberty was arbitrarily exercised and without prompt review by a competent authority. The gravity was such that it was in violation of fundamental rules of international law.
150. Likewise, the arrests and detentions violated the law applicable in CAR at the relevant time — whether for preliminary detention in criminal proceedings or after

⁴⁴¹ [REDACTED]: CAR-OTP-2022-0121-R01 at 0121 (Fr); [REDACTED]: CAR-OTP-2104-1024-R01 at 1025 (Fr); [REDACTED]: CAR-OTP-2018-0389-R01 at 0389 (Fr); [REDACTED]: CAR-OTP-2130-4712-R01 at 4713 (Fr); [REDACTED]: CAR-OTP-2130-5386-R01 at 5387 (Fr); [REDACTED]: CAR-OTP-2127-9728-R01 at 9729 (Fr).

⁴⁴² [REDACTED]: CAR-OTP-2127-7632-R01 at 7633 (Fr); [REDACTED]: CAR-OTP-2130-1719-R01 at 1720 (Fr); [REDACTED]: CAR-OTP-2130-6271-R01 at 6272 (Fr).

⁴⁴³ [REDACTED]: CAR-OTP-2130-2342-R01 at 2343 (Fr); [REDACTED]: CAR-OTP-2127-7599-R01 at 7600 (Fr); [REDACTED]: CAR-OTP-2091-0054-R01 at 0054 (Fr); **P-2294**: CAR-OTP-2127-9537-R01 at 9538 (Fr).

⁴⁴⁴ **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-2257**: CAR-OTP-2130-5386-R01 at 5387 (Fr); **P-2263**: CAR-OTP-2130-6271-R01 at 6272 (Fr); **P-2293**: CAR-OTP-2130-5668-R01 at 5669 (Fr).

⁴⁴⁵ [REDACTED]: CAR-OTP-2130-2342-R01 at 2345, para. 12 (Fr); [REDACTED]: CAR-OTP-2050-0172-R01 at 0173, para. 11 (Fr); [REDACTED]: CAR-OTP-2130-2147-R01 at 2150, para. 11 (Fr); [REDACTED]: CAR-OTP-2130-1929-R01 at 1935, para. 28 (Fr).

sentencing.⁴⁴⁶ There was no state of emergency in place in CAR.⁴⁴⁷ Nor did DJOTODIA enact any legislation modifying CAR law on this matter.

(2) Arrests were arbitrary

151. Armed Seleka elements stationed at the OCRB arrested the victims at night, often violently,⁴⁴⁸ and brought them to the detention centre.⁴⁴⁹ 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.⁴⁵⁰
152. 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,⁴⁵¹ or believed to have an affiliation with the BOZIZE government as a soldier⁴⁵² or intelligence agent.⁴⁵³ Others were merely believed to have helped or supported the pro-BOZIZE

⁴⁴⁶ 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).

⁴⁴⁷ **SC RES 2127 (2013)**: CAR-OTP-2001-1075 at 1090, para. 57.

⁴⁴⁸ See **P-0338**: CAR-OTP-2068-0244-R01 at 0257, para. 71 (Eng).

⁴⁴⁹ **P-2105**: CAR-OTP-2078-0031-R01 at 0014, para. 64 (Fr).

⁴⁵⁰ **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).

⁴⁵¹ See *supra*, para. 128 (“Flyers incident”).

⁴⁵² See *supra*, paras. 127, 130, 136; see also **P-2519**: CAR-OTP-2130-5310-R01 at 5311, 5313, 5314, para. 14, paras. 17, 21 (Fr).

⁴⁵³ **P-2105**: CAR-OTP-2081-0037-R01 at 0039, para. 13 (Fr); **P-1289**: CAR-OTP-2127-7632-R01 at 7640, para. 37 (Fr).

forces,⁴⁵⁴ or simply were from the Gbaya ethnic group.⁴⁵⁵ These suspicions were plainly insufficient to justify any kind of lawful detention; nor were any of the suspicions of specific conduct supported by objective information shared with the detainee(s) in question.

153. As summarised in paragraphs 33.n, 33.o, 33.p, 33.q, 33.r, 33.s, 33.t of the DCC, the arrests and detentions of perceived BOZIZE supporters rose in mid-August 2013 after the disruption of the inauguration of DJOTODIA.⁴⁵⁶ [REDACTED],⁴⁵⁷ [REDACTED].
154. Other persons detained at OCRB, including in the basement cell, had simply been transferred there from the un-official detention centre run by the Sudanese Seleka General Moussa ASSIMEH at the *Camp des Sapeurs-Pompiers* base, where people were being held in cattle lorry containers under dire conditions,⁴⁵⁸ or from *Camp de Roux*.⁴⁵⁹ Yet, no effort was made to ‘regularise’ these persons’ detention on their arrival at the OCRB; rather, they continued to be treated as if outside the protection of the law.
155. On some occasions, SAID and TAHIR and other Seleka at the OCRB also asked detainees or their families for ransom in exchange for their release.⁴⁶⁰ The willingness to contemplate detainees’ release in exchange for financial gain shows the arbitrary basis of their initial arrest and/or detention.

(3) Inhumane detention conditions

156. SAID and his subordinates TAHIR, DAMBOUCHA and YAYA kept the prisoners at OCRB in dire detention conditions, which made them suffer severely physically

⁴⁵⁴ **P-0664**: [CAR-OTP-2104-0540-R01](#) at 0545 para. 36.

⁴⁵⁵ **P-0547**: [CAR-OTP-2018-0389-R01](#) at 0389 (Fr); **P-0338**: [CAR-OTP-2068-0244-R01](#) at 0264-0265, paras. 114-122 (Eng); [CAR-OTP-2130-5761-R01](#) at 5782-5784, paras. 114-121 (Fr); **P-2105**: [CAR-OTP-2081-0037-R01](#) at 0039, para. 13 (Fr).

⁴⁵⁶ 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).

⁴⁵⁷ **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). See *supra*, para. 138.

⁴⁵⁸ **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. See also **P-2257**: [CAR-OTP-2125-0909-R01](#) at 0915, paras. 35-37; [CAR-OTP-2130-5386-R01](#) at 5393, paras. 35-37 (Fr).

⁴⁵⁹ **P-2179**: [CAR-OTP-2130-2342-R01](#) at 2353-2358, paras. 47-73 (Fr).

⁴⁶⁰ **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-R01](#) at 0750, para. 21 (Fr).

as well as mentally. Prisoners were held in small, dark, crowded⁴⁶¹ cells with only a bucket as a toilet and little or no food, causing detainees to drink their own urine.⁴⁶² The cells contained up to 15-20 detainees, making it difficult for them to lie down to rest.⁴⁶³

157. Detainees were not provided with adequate food, water or independent medical attention.⁴⁶⁴ They were dependent on their relatives bringing them food.⁴⁶⁵ 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 virtually without food.

(4) No review of the basis of detention, or procedural safeguards

158. 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 in 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 to be treated as criminal suspects or regarded as such.
159. Thus, some detainees were ostensibly charged with crimes after their initial detention, but the charges were manifestly ill-founded (because they concerned

⁴⁶¹ **P-2263:** [CAR-OTP-2130-6271-R01](#) at 6275-6276, paras. 23, 26 (Fr); **P-2257:** [CAR-OTP-2130-5386-R01](#) at 5392, para. 30 (Fr); **P-1675:** [CAR-OTP-2091-0054-R01](#) at 0065, para. 56 (Fr); **P-2253:** [CAR-OTP-2130-5793-R01](#) at 5802, para. 61, 5803, para. 65. *See also* **P-2478:** [CAR-OTP-2110-0745-R01](#) at 0748-0750, 0753, 0758, paras. 15-22, 33-37, 53-55 (Fr).

⁴⁶² **P-0622:** [CAR-OTP-2022-0121-R01](#) at 0121, para. 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).

⁴⁶³ **P-0547:** [CAR-OTP-2018-0389-R01](#) at 0396, para. 43 (Fr).

⁴⁶⁴ **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).

⁴⁶⁵ **P-2179:** [CAR-OTP-2130-2342-R01](#) at 2363, para. 93 (Fr); **P-2253:** [CAR-OTP-2089-1114-R01](#) at 1122, para. 63 (Eng); [CAR-OTP-2130-5793-R01](#) at 5802-5803, para. 63 (Fr); **P-1180:** [CAR-OTP-2127-7599-R01](#) at 7622, para. 156 (Fr); **P-1737:** [CAR-OTP-2130-2086-R01](#) at 2099, para. 59 (Fr); **P-1675:** [CAR-OTP-2091-0054-R01](#) at 0063, para. 49 (Fr); **P-1429:** [CAR-OTP-2043-0317-R01](#) at 0325, para. 61 (Fr); **P-1432:** [CAR-OTP-2050-0172-R01](#) at 0179, para. 51 (Fr.)

conduct protected by international human rights such as freedom of speech),⁴⁶⁶ or the detainees were not afforded due process.

160. The Flyers-detainees were brought before the *Tribunal de Grande Instance* after five weeks of detention,⁴⁶⁷ and charged with acts that compromise public security (“*actes de nature à compromettre la sécurité publique*”),⁴⁶⁸ yet they had not been sufficiently informed of the charge for their rights,⁴⁶⁹ nor did they benefit from the presumption of innocence, or the proper assistance of counsel for their defence.⁴⁷⁰ Other OCRB detainees were also deprived of representation by counsel.⁴⁷¹
161. [REDACTED].⁴⁷² [REDACTED],⁴⁷³ [REDACTED].⁴⁷⁴ [REDACTED],⁴⁷⁵ [REDACTED].⁴⁷⁶
162. Many other detainees summarised in paragraph 33 of the DCC 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-1762 and P-2400 did not have

⁴⁶⁶ **P-1180:** CAR-OTP-2127-7599-R01 at 7622, para. 153 (Fr); **P-2257:** CAR-OTP-2130-5386-R01 at 5391, paras. 23-25 (Fr); **P-2293:** CAR-OTP-2130-5668-R01 at 5675, para. 37 (Fr); **P-0923:** CAR-OTP-2130-1719-R01 at 1727, paras. 42-44 (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); **P-2253:** CAR-OTP-2130-5793-R01 at 5806, paras. 87-93 (Fr); **P-1675:** CAR-OTP-2091-0054-R01 at 0061-0062, 0066, paras. 50, 60-63 (Fr); **P-2294:** CAR-OTP-2127-9537-R01 at 9544, 9548, 9549, paras. 33, 55, 61, 64, 65 (Fr); **P-2279:** CAR-OTP-2127-9728-R01 at 9732-9733, paras. 17-21, 9739-9740, 0974, paras. 58, 81 (Fr).

⁴⁶⁷ **Media article:** CAR-OTP-2074-0336 at 0342; see also sources at para. 128.

⁴⁶⁸ **P-0293:** CAR-OTP-2043-0479; **P-1675:** CAR-OTP-2091-0074; **P-2263:** CAR-OTP-2089-1242; **P-2253:** CAR-OTP-2089-1132; **P-2260:** CAR-OTP-2089-1217; **P-2295:** CAR-OTP-2091-3192; **P-2294:** CAR-OTP-2091-3217; **P-2300:** CAR-OTP-2091-3231; **P-2279:** CAR-OTP-2130-4680-R01; **Journal Officiel:** CAR-OTP-2001-3199 at 3240; **TGI Register:** CAR-OTP-2008-2415 at 2501, entry 542, 10 August 2013.

⁴⁶⁹ **P-1180:** CAR-OTP-2127-7599-R01 at 7605, para. 31 (Fr); **P-1675:** CAR-OTP-2091-0054-R01 at 0057, para. 16 (Fr); **P-2293:** CAR-OTP-2130-5668-R01 at 5672, para. 17 (Fr).

⁴⁷⁰ **P-2253:** CAR-OTP-2130-5793-R01 at 5800, 5803, 5806, paras. 48, 65, 88 (Fr); **P-2263:** CAR-OTP-2091-3074-R01 at 3086-3087, paras. 47, 55-56; (Eng); **P-2257:** CAR-OTP-2125-0909-R01 at 0916, para. 43 (Eng); CAR-OTP-2127-9708-R01 at 9720, para. 43 (Fr); **P-1180:** CAR-OTP-2127-7599-R01 at 7625, para. 171 (Fr); **P-2294:** CAR-OTP-2127-9537-R01 at 9549-9550, para. 64; **P-2279:** CAR-OTP-2127-9728-R01 at 9745, para. 85 (Fr).

⁴⁷¹ **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).

⁴⁷² **P-0481:** CAR-OTP-2104-1024-R01 at 1043-1044, paras. 114-120 (Fr); see also *supra*, para. 128.

⁴⁷³ **P-1289:** CAR-OTP-2127-7632-R01 at 7648-7649, paras. 82-83 (Fr); **P-0622:** CAR-OTP-2022-0121-R01 at 0130, para. 71 (Fr), **P-0481:** CAR-OTP-2104-1024-R01 at 1042, paras. 102-109 (Fr).

⁴⁷⁴ See DCC, para. 33.s; *supra*, para. 138.

⁴⁷⁵ **P-2519:** CAR-OTP-2130-5310-R01 at 5322-5323, para. 79, 5325, paras. 93, 95 (Fr).

⁴⁷⁶ **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).

the lawfulness of their detention determined or reviewed by an independent authority at any point.⁴⁷⁷

163. In particular, while **SAID** was in charge of OCRB, at least 31 victims were detained in the underground cell⁴⁷⁸ in the OCRB main building, located directly under the floor in **SAID**'s office.⁴⁷⁹
164. In fact, this space was not designed to function as a cell at all, and neither career police officers nor the Prosecutor General were given access to, or informed about, the detainees held inside.⁴⁸⁰ These detainees were unable to see their relatives at any point,⁴⁸¹ and some were severely mistreated amounting to torture.⁴⁸² Only when the Seleka control over the OCRB was ended on 30 August 2013,⁴⁸³ were the detainees in the underground cell released or moved to the above ground cells.⁴⁸⁴ Until that time, they were effectively removed from the protection of the law in all respects.

iii. Awareness of the gravity

165. **SAID** was aware of the factual circumstances that established the gravity of the conduct. This knowledge is the only reasonable inference from the evidence outlined under paragraphs 94 – 106 and the essential contributions to the crimes described in paragraphs 209 – 242.

⁴⁷⁷ **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).

⁴⁷⁸ At least 31 victims were detained in the underground cell at OCRB, see DCC, para. 33. According to **P-0547**, the witness himself, [REDACTED], who is P-3503, [REDACTED] P-1792 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] and [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.

⁴⁷⁹ **P-0338**: CAR-OTP-2130-5761-R01 at 5783, 5785, paras. 119, 128 (Fr); **P-2478**: CAR-OTP-2110-0745-R01 at 0758, para. 55 (Fr).

⁴⁸⁰ **P-2478**: CAR-OTP-2110-0745-R01 at 0758, paras. 58-60.

⁴⁸¹ **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.

⁴⁸² See *supra*, para. 137 (P-0547).

⁴⁸³ **P-1967**: CAR-OTP-2118-6365-R01 at 6467 “P8113047 a P8301201” and photographs of the handover ceremony from CAR-OTP-2069-3221 to CAR-OTP-2069-3246.

⁴⁸⁴ **P-1432**: CAR-OTP-2050-0172-R01 at 0179, para. 54 (Fr); **P-2478**: CAR-OTP-2110-0745-R01 at 0759, paras. 58-59 (Fr); **P-0547**: CAR-OTP-2018-0389-R01 at 0408, para. 134 (Fr).

b) COUNTS 2 and 3: Crime of Torture (articles 7(1)(f) and 8(2)(c)(i)-4)

aa. Legal Elements

166. **SAID** is charged with the crime of torture as a crime against humanity and as a war crime regarding mistreatment of detainees at OCRB.
167. The elements of crimes of the crime of torture as a crime against humanity pursuant to article are defined 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 of the perpetrator; (iii) such pain or suffering did not arise only from, and was not inherent in or incidental to, lawful sanctions.⁴⁸⁵ 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.⁴⁸⁶

bb. Material Facts

168. The evidence as outlined above under section III.B. and summarised in the sub-paragraphs of paragraph 33 of the DCC supports that in the relevant timeframe, several men who were detained at OCRB were physically and mentally mistreated severely by Seleka under **SAID's** control.⁴⁸⁷ Among these, there were at least 16 male detainees who were tied with the *arbatachar* method under orders from and with knowledge of **SAID**.⁴⁸⁸

⁴⁸⁵ See *Bemba* Confirmation Decision, para. 191.

⁴⁸⁶ 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).

⁴⁸⁷ See DCC, paras. 33.c, 33.f, 33.i, 33.n, and 33.s and paras. 124, 127, 130, 135, 140.

⁴⁸⁸ In the relevant timeframe at least 16 victims were tied *arbatachar* at OCRB, see DCC, paras. 33.a, 33.d, 33.f, 33.g, 33.m, 33.p, 33.q, 33.r, 33.t and *supra*, paras. 120, 123, 125, 126, 132, 135, 136, 137, 139.

i. *Arbatachar*-method

169. A common method used by the Seleka at the OCRB was to tie detainees up “*arbatachar*”⁴⁸⁹ – a technique whereby the hands, elbows and legs are tied tightly behind a person’s back, with the legs touching the elbows, causing great pain.⁴⁹⁰ Detainees were then also beaten, in order to extort information or confessions.⁴⁹¹ The pain caused by this position would be so excruciating that prisoners would ask to be killed; after being tied up for several hours in this position the detainees were unable to walk anymore.⁴⁹² The treatment left them unable to use their limbs:⁴⁹³ some were temporarily paralysed;⁴⁹⁴ others had rotten and discoloured arms and could not even feed themselves;⁴⁹⁵ others were so exhausted from the torture that they needed help to even change position.⁴⁹⁶ Others suffered from infections,⁴⁹⁷ but no medical attention was provided to the prisoners.

ii. Severe beatings

170. As set out in the DCC at paragraph 33.i, the victims of the “Flyers incident” were ordered by the Seleka to remove their clothes and to lie face down on the floor in the OCRB compound upon their arrival at OCRB on [REDACTED] July 2013.⁴⁹⁸ Seleka elements poured water and threw sand on the detainees’ bare backs, muddied

⁴⁸⁹ **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).

⁴⁹⁰ Victims of *arbatachar* at OCRB (at least 16): **P-0622** [REDACTED]: CAR-OTP-2022-0121-R01 at 0131, paras. 79-86 (Fr); **P-0547**: CAR-OTP-2018-0389-R01 at 0397, paras. 56-60 (FR); **P-1432** (P-0547): CAR-OTP-2050-0172-R01 at 0178, para. 45 (Fr); **P-2179**: [REDACTED]: CAR-OTP-2088-2250-R01 at 2267, para. 90; **P-2179**: CAR-OTP-2130-2342-R01 at 2362, para. 90 (Fr); **P-2239** (an older man): CAR-OTP-2104-0918-R01 at 0931, para. 57 (Eng); **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); **P-2239**: [REDACTED] : CAR-OTP-2130-4729-R01 at 4741, 4743, paras. 47-48, 57 (Fr).

⁴⁹¹ **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).

⁴⁹² **P-0547**: CAR-OTP-2018-0389-R01 at 0398, paras. 59-62 (Fr).

⁴⁹³ **P-0787**: CAR-OTP-2130-0893-R01 at 0916, para. 97 (Fr).

⁴⁹⁴ **P-0547**: CAR-OTP-2018-0389-R01 at 0398, para. 59 (Fr).

⁴⁹⁵ **P-0787**: CAR-OTP-2130-0893-R01 at 0908, para. 63 (Fr).

⁴⁹⁶ **P-0547**: CAR-OTP-2018-0389-R01 at 0396, para. 44 (Fr).

⁴⁹⁷ **P-0787**: CAR-OTP-2130-0893-R01 at 0908-0909, paras. 63-65 (Fr).

⁴⁹⁸ See para. 128 above.

the backs and then flogged the men repeatedly with ropes until their backs bled.⁴⁹⁹ One detainee also mentions being beaten with a rifle butt.⁵⁰⁰ The victims state that if any of the detainees made a sound or moved, the Seleka flogged them again.⁵⁰¹ Once the beatings were done, this group of detainees were kicked with Ranger military boots if they did not get up quickly enough and were made to run towards the entrance of a cell while being beaten with police batons.⁵⁰²

171. Other detainees at the OCRB were beaten with rifle butts,⁵⁰³ or slapped violently and threatened that “[y]ou BOZIZE’s mercenaries, we’re going to kill you one by one”.⁵⁰⁴ Mistreatment of detainees occurred almost on a daily basis at the OCRB.⁵⁰⁵ In detention, prisoners were whipped with stripes of rubber tire or with sticks that had metal wires at the bottom; were beaten with truncheons on their feet while kneeling, or with rifle butts; burnt; [REDACTED].⁵⁰⁶

172. [REDACTED].⁵⁰⁷

iii. Specific purpose under article 8

173. The torture was inflicted with the specific purpose of inflicting the pain and suffering to obtain information or a confession, to punish, intimidate or coerce the detained persons. SAID himself endorsed the use of the *arbatachar* method for the purpose of obtaining information. P-0338 states: [REDACTED].⁵⁰⁸ P-2478 describes that it was TAHIR and SAID who would give the orders for the torturing of the prisoners.⁵⁰⁹

⁴⁹⁹ P-2294: CAR-OTP-2127-9537-R01 at 9546-9547, paras. 45, 47 (Fr); P-1180: CAR-OTP-2127-7599-R01 at 7622, paras. 154-156 (Fr); P-2257: CAR-OTP-2130-5386-R01 at 5392, para. 29 (Fr); P-1675: CAR-OTP-2107-8558-R01 at 8569, para. 56 (Fr); P-2263: CAR-OTP-2127-9708-R01 at 9714, paras. 21-22; P-2253: CAR-OTP-2130-5793-R01 at 5802, para. 58 (Fr); P-2279: CAR-OTP-2127-9728-R01 at 9743, para. 74 (Fr).

⁵⁰⁰ P-2294: CAR-OTP-2127-9537-R01 at 9547-9548, para. 52 (Fr).

⁵⁰¹ P-1180: CAR-OTP-2127-7599-R01 at 7622, para. 155 (Fr); P-2253: CAR-OTP-2130-5793-R01 at 5802, para. 58 (Fr); P-2263: CAR-OTP-2127-9708-R01 at 9714, para. 21 (Fr); P-1675: CAR-OTP-2091-0054-R01 at 0065, para. 56 (Fr); P-2257: CAR-OTP-2130-5386-R01 at 5392, para. 29 (Fr).

⁵⁰² P-2263: CAR-OTP-2127-9708-R01 at 9714, paras. 21-22 (Fr); P-2294: CAR-OTP-2127-9537-R01 at 9546-9547, para. 47 (Fr).

⁵⁰³ P-0547: CAR-OTP-2018-0389-R01 at 0395, para. 38 (Fr).

⁵⁰⁴ *Id.*

⁵⁰⁵ P-0787: CAR-OTP-2130-0893-R01 at 0914, para. 88 (Fr).

⁵⁰⁶ P-1004: CAR-OTP-2130-1736-R01 at 1743, para. 39 (Fr); P-0481: CAR-OTP-2104-1024-R01 at 1042, 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).

⁵⁰⁷ P-0481: CAR-OTP-2104-1024-R01 at 1042-1043, paras. 109-110 (Fr).

⁵⁰⁸ P-0338: CAR-OTP-2130-5761-R01 at 5781, para. 105 (Fr).

⁵⁰⁹ P-2487: CAR-OTP-2110-0745-R01 at 0757, para. 50 (Fr).

174. In the case of the persons detained because they [REDACTED] the severe beating which they received upon their arrival at OCRB was intended to punish and intimidate, as it was paired [REDACTED] in order to further increase the pain, and they were told [REDACTED].

iv. In the custody and under control of SAID

175. At all material times, the detainees tortured were in the custody and under control of the OCRB-Seleka, who were subordinates to **SAID**. This is evidenced by the accounts of the witnesses themselves who were detained at OCRB.⁵¹⁰ These detainees were also 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 beating.

c) COUNT 4: Cruel treatment as a war crime

aa) Legal Elements

176. **SAID** is charged with the war crime of cruel treatment regarding the detention conditions at OCRB as well as the regular physical mistreatment of detainees.

177. The specific elements of this crime, which need to be fulfilled 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

178. As outlined in paragraphs 169 - 172 above, detainees were tied *arbatachar*, regularly beaten and otherwise severely mistreated at OCRB.

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

179. 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

⁵¹⁰ See *supra*, para. 128.

article 7, paragraph 1, of the Statute; (iii) the perpetrator was aware of the factual circumstances that established the character of the act.⁵¹¹

bb. Material Facts

180. The conditions of the detention at OCRB inflicted upon detainees fulfil the elements of other inhumane acts as a crime against humanity. The detainees were squeezed into small cells.⁵¹² 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.⁵¹³ Like the victims themselves, he describes that the cells were overcrowded with detainees, who could not lie down to sleep. The cell doors had no windows.
181. They were scared, thirsty, hungry and unable to sleep. The temperature was stifling hot in the cells. The detainees were dependent on relatives to bring them food and often went hungry and thirsty.⁵¹⁴
182. P-2478 explains that [REDACTED] the Red Cross and MSF come to OCRB only once or twice [REDACTED] to give detainees some medicine.⁵¹⁵
183. Prisoners like P-0547, 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 OCRB main building that Seleka elements covered with boards and had placed a desk on top.⁵¹⁶ The underground cell held up to 3 detainees at any one time.⁵¹⁷ This cell was being used as early as April 2013 but in late August 2013 the usage

⁵¹¹ 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. 2745, 2837 (“Article 7(1)(k) acts were “residual” in nature and “in a relationship of subsidiarity with all other crimes against humanity”,⁵¹¹ and noted that “in light of the established facts, [...] there is no act underlying the charge under Count 7 which may be considered as different but of similar character, in terms of harm and protected interests involved, compared to those already qualified as a crime against humanity of torture under Count 4”).

⁵¹² See *supra*, para. 156.

⁵¹³ **P-1167**: CAR-OTP-2127-7671-R01 at 7963, para. 122 (Fr).

⁵¹⁴ **P-1167**: CAR-OTP-2127-7671-R01 at 7962, para. 115 (Fr).

⁵¹⁵ **P-2487**: CAR-OTP-2110-0745-R01 at 0757, para. 52 (Fr).

⁵¹⁶ **P-0787**: CAR-OTP-2130-0893-R01 at 0907, paras. 59-60 (Fr); **P-0547**: CAR-OTP-2018-0389-R01 at 0398-0399, para. 66 (Fr); **P-1762**: CAR-OTP-2130-2147-R01 at 2159, paras. 60-64 (Fr). **P-1737**: CAR-OTP-2130-2086-R01 at 2098-2099, paras. 58-60 (Fr) [REDACTED]; **P-2519**: CAR-OTP-2130-5310-R01 at 5319-5320, para. 59 (Fr); **P-0547**: CAR-OTP-2018-0389-R01 at 0396, para. 43 (Fr); **P-2179**: CAR-OTP-2130-2342-R01 at 2361-2362, paras. 87-88 (Fr); **P-1762**: CAR-OTP-2073-0568-R01 at 0578, para. 60; **P-0787**: 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, para. 44 (Fr).

⁵¹⁷ **P-0787**: CAR-OTP-2130-0893-R01 at 0907, para. 59 (Fr).

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 saw another detainee who suffered from a mental breakdown and constantly held onto a bone he had found in there.⁵¹⁸ Detainees from the basement were also threatened about their alleged allegiance to BOZIZE.⁵¹⁹

184. The detention conditions for these basement-detainees were particularly dire as evidenced by the victims themselves.⁵²⁰ P-2478, [REDACTED], 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 been tortured.”⁵²¹ Soon after, the police at OCRB alerted human rights organisations who came to OCRB. Among those who came were French troops who took photographs of the prisoners in the basement.⁵²² According to P-2478 [REDACTED].⁵²³ P-2478 states [REDACTED].⁵²⁴ The mistreatment of these males, including their conditions of detention, inflicted on them severe physical and mental pain or suffering, or great suffering or serious injury to body or to mental and physical health. The pain and suffering did not arise from and was not inherent in or incidental to lawful sanctions.

e) COUNT 6: Outrages upon personal dignity as a war crime (8(2)(c)(ii))

185. The mistreatment of the detainees including their subjection to the inhumane detention conditions also fulfils the elements of the war crimes of outrages upon personal dignity pursuant to article 8(2)(c)(ii) of the Statute.⁵²⁵ Next to the extreme pain caused, the torture method of tying someone *arbatachar* puts the victim in a bodily position designed to humiliate and degrade. In addition, the detention conditions, especially herding prisoners into crowded cells and depriving them of adequate food, water and medical attention, including in the underground cell, also severely violates the detainee’s dignity. The detainees were all at minimum *hors de combat* at the time of their mistreatment.

⁵¹⁸ **P-0547:** CAR-OTP-2018-0389-R01 at 0398-0399, paras. 65-71 (Fr).

⁵¹⁹ **P-0547:** CAR-OTP-2018-0389-R01 at 0395, 0404, paras. 38, 108 (Fr).

⁵²⁰ **P-0547:** CAR-OTP-2018-0389-R01 at 0399, para. 70.

⁵²¹ **P-2478:** CAR-OTP-2110-0745-R01 at 0758, para. 54 (Fr).

⁵²² **Response of the French Ministry Defence:** CAR-OTP-2102-0614-R01 at 0615; CAR-OTP-2102-0637-R01 (Photograph).

⁵²³ **P-2478:** CAR-OTP-2110-0745-R01 at 0759, para. 57 (Fr).

⁵²⁴ **P-2478:** CAR-OTP-2110-0745-R01 at 0758, para. 59 (Fr).

⁵²⁵ See *Katanga & Ngudjolo* Confirmation Decision, para. 367, 369.

f) COUNT 7: Crime of persecution (article 7(1)(h))

aa. Legal Elements

186. For the crime of persecution, the perpetrator needs to (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).
187. As detailed below, **SAID** committed the crime of persecution with respect to the detainees at the OCRB, as charged in Count 7 of the DCC. The acts of OCRB-Seleka, and their discriminatory intent, are described in this section.

bb. Material Facts

i. Targeting of detainees perceived as pro-BOZIZE supporters

188. At all material times, **SAID** and the other perpetrators targeted the detainees in OCRB who they perceived as supporting BOZIZE. Thus, they targeted these individuals by reason of the identity of a group or collectivity within the meaning of article 7(1)(h).
189. The victims⁵²⁶ who were subjected to the treatment outlined under Counts 1 – 7 of the DCC were predominantly members of the Christian religion. They were also predominantly from certain ethnic groups, namely from the Gbaya ethnic group, which is the ethnic group of BOZIZE,⁵²⁷ or from the ethnic groups of Mandja and Banda, also overwhelmingly Christian.⁵²⁸

⁵²⁶ **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-2257**: CAR-OTP-2130-5386-R01 at 5387 (Fr); **P-2257**: CAR-OTP-2125-0909-R01 at 0909 (Eng); **P-2263**: CAR-OTP-2130-6271-R01 at 6272 (Fr); **P-2263**: CAR-OTP-2089-1229-R01 at 1229 (Eng); **P-2293**: CAR-OTP-2130-5668-R01 at 5669 (Fr).

⁵²⁷ [REDACTED]: CAR-OTP-2107-6147-R01 at 6157, para. 58 [REDACTED].

⁵²⁸ [REDACTED]: CAR-OTP-2125-0922-R01 at 0922 (Eng); [REDACTED]: CAR-OTP-2022-0121-R01 at 0121 (Fr); **P-1737**: CAR-OTP-2130-2086-R01 at 2098, para. 58 [REDACTED].

190. The victims of the charged crimes who were arrested and brought to OCRB were from certain neighbourhoods in Bangui where the population was traditionally supportive of the former President, the 4th Arrondissement, specifically the Boy Rabe area, and the 7th Arrondissement.⁵²⁹ Some were former FACA or Presidential Guards 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.⁵³⁰ Furthermore, the victims were predominantly male.

ii. Deprivation of rights and nexus to the crimes

191. SAID and the OCRB-Seleka, including elements under his control, severely deprived, contrary to international law, these persons of fundamental rights, including the rights to life, bodily integrity, freedom of movement and not to be subjected to torture or cruel, inhumane or degrading treatment. The charged crimes at OCRB as outlined in Counts 1 – 7 of the DCC constitute the underlying conduct of the count of persecution since they amount to a severe deprivation of fundamental rights, including the right to life, bodily integrity, private property, freedom of movement, and not to be subjected to cruel, inhuman or degrading treatment. The facts described under Counts 1 – 7 of the DCC form the underlying conduct of the crime of persecution. This conduct was committed in connection with these crimes.

iii. Political, ethnic, religious, and/or gender grounds

192. SAID is charged for persecution committed on political, ethnic, religious, and/or gender grounds.⁵³¹

193. As summarised in the DCC, OCRB detainees were arrested, imprisoned and subjected to torture, cruel treatment and other inhumane acts because of their perceived status as supporters of BOZIZE. The different factors (political, ethnic,

⁵²⁹ [REDACTED]: CAR-OTP-2018-0389-R01 at 0395, para. 38 (Fr).

⁵³⁰ [REDACTED]: CAR-OTP-2127-7632-R01 at 7640, para. 37 (Fr) [REDACTED]; [REDACTED]: CAR-OTP-2130-5310-R01 at 5313, 5316, paras. 12-15, 32 [REDACTED]; [REDACTED]: CAR-OTP-2130-2342-R01 at 2349, para. 30 (Fr) [REDACTED]; [REDACTED]: CAR-OTP-2083-0033-R01 at 0041, 0044, 0045, 0051, paras. 48-49, 67, 72, 111 [REDACTED]; [REDACTED]: CAR-OTP-2077-0546-R01 at 0548, para. 12; (SANZE OSWALD was a FACA); [REDACTED]: CAR-OTP-2127-3789 at 3791 [REDACTED]; [REDACTED]: CAR-OTP-2077-0546-R01 at 0548, para. 12 [REDACTED]; [REDACTED]: CAR-OTP-2127-3789 at 3791; [REDACTED]: CAR-OTP-2104-1024-R01 at 1034,1042, paras. 53, 102-106 [REDACTED]; [REDACTED]: [REDACTED]: CAR-OTP-2022-0121-R01 at 0126, 0129, 0130, paras. 34, 58, 71.

⁵³¹ 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.

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*);⁵³² because they were members of the Gbaya or other ethnic groups perceived to traditionally support BOZIZE,⁵³³ used as a proxy to identify supporters of BOZIZE who was himself a Gbaya (*ethnic grounds*);⁵³⁴ because they were *all* Christian⁵³⁵ 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*).⁵³⁶

194. Individuals that were detained at the OCB included [REDACTED];⁵³⁷ [REDACTED];⁵³⁸ [REDACTED];⁵³⁹ [REDACTED];⁵⁴⁰ [REDACTED];⁵⁴¹ [REDACTED];⁵⁴² [REDACTED].⁵⁴³

195. The men detained at OCB were also detained because they were FACA or former Presidential guards.⁵⁴⁴ According to [REDACTED], P-2563, the targeting of the FACA soldiers was combined with the objective of finding weapons.⁵⁴⁵ However, the FACA were arrested in their own homes solely on account of being members of the military.⁵⁴⁶ There is no evidence that any of them were taking active part in hostilities when they were arrested.

⁵³² Ongwen TJ, para. 2737.

⁵³³ See *Gbagbo* Confirmation Decision, para. 205.

⁵³⁴ See, e.g., **P-0100**: CAR-OTP-2118-6331-R01 at 6338, para. 31 (Fr); CAR-OTP-2027-2535-R01 at 2540, para. 31 (Eng).

⁵³⁵ **P-2504**: CAR-OTP-2107-8430-R01 at 8433-8434, para. 14 (Fr) [REDACTED].

⁵³⁶ 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.

⁵³⁷ **P-0481**: CAR-OTP-2104-1024-R01 at 1028, 1035, paras. 15, 18, 56-57 (Fr).

⁵³⁸ **P-1289**: CAR-OTP-2127-7632-R01 at 7635, 7642, paras. 13, 48 (Fr).

⁵³⁹ **P-1762**: CAR-OTP-2130-2147-R01 at 2150, 2159, paras. 11, 14, 57-61 (Fr).

⁵⁴⁰ **P-1180**: CAR-OTP-2127-7599-R01 at 7602, 7604-7606, 7622, paras. 12, 27-39, 153 (Fr).

⁵⁴¹ **P-1429**: CAR-OTP-2043-0317-R01 at 0319, 0320, 0322, 0324, paras. 12, 20-21, 33, 48 (Fr).

⁵⁴² **P-0622**: CAR-OTP-2022-0121-R01 at 0124, 0125, 0128, paras. 15-17, 28-32, 52 (Fr).

⁵⁴³ **P-0547**: CAR-OTP-2018-0389-R01 at 0392, 0394-0395, 0396, paras. 18, 20, 29-37, 43 (Fr).

⁵⁴⁴ **P-2240**: CAR-OTP-2110-0780-R01 at 0788, para. 29 (Fr).

⁵⁴⁵ **P-2563**: CAR-OTP-2130-4811-R01 at 4814, lns. 69-71 (Fr); **P-2563**: CAR-OTP-2130-5873-R01 at 5887, lns. 456-465 (Fr).

⁵⁴⁶ **P-2563**: CAR-OTP-2130-5896-R01 at 5909, lns. 427-428 (Fr) [REDACTED]; **P-0778**: CAR-OTP-2130-0893-R01 at 0909, para. 68 [REDACTED]; **P-2179**: CAR-OTP-2130-2342-R01 at 2361-2362, paras. 85-93 (Fr); **P-**

196. Detainees were taken to OCRB from Boy Rabe as they lived in and/or were affiliated with persons from that neighbourhood as part of the retaliation against the neighbourhood as a whole.⁵⁴⁷ **SAID** took part in that second operation, when the Seleka attacked Boy Rabe after the inauguration, looking for the BOZIZE supporters but committing crimes against the civilians in the neighbourhood at the same time.⁵⁴⁸

iv. Acting with a discriminatory intent

197. That **SAID** and the OCRB-Seleka under his command and those he cooperated and coordinated with committed the charged crimes with discriminatory intent 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 including of other incidents involving OCRB-Seleka, including **SAID** during the charged period.

1. Acts and language used during charged incidents

198. Verbal utterances made by the OCRB-Seleka evidence the discriminatory intent behind the arrests and mistreatment of OCRB detainees, as illustrated by the following accounts:

- When P-1289 asked for the reason of his arrest, [REDACTED],⁵⁴⁹
- At the OCRB, the Seleka threatened P-0622 that [REDACTED].⁵⁵⁰ [REDACTED],⁵⁵¹
- When ADAM visited the OCRB, he addressed the detainees, calling them animals who supported BOZIZE, and indicating that the Seleka would be running the country for 15 to 20 years, and would kill the lot of them.⁵⁵² [REDACTED],⁵⁵³ [REDACTED].⁵⁵⁴ [REDACTED].

1762: CAR-OTP-2130-2147-R01 at 2148, 2159-2163, paras. 58-79 (Fr); **P-1432:** CAR-OTP-2050-0172-R01 at 0172, 0178, para. 41 (Fr).

⁵⁴⁷ **P-0787:** CAR-OTP-2130-0893-R01 at 0899, para. 25 (Fr); **P-0338:** CAR-OTP-2068-0244-R01 at 0265, para. 121 (Eng).

⁵⁴⁸ **P-1167:** CAR-OTP-2127-7671-R01 at 7701, para. 166 (Fr).

⁵⁴⁹ **P-1289:** CAR-OTP-2127-7632-R01 at 7640-7641, paras. 37, 42-43 (Fr).

⁵⁵⁰ **P-0622:** CAR-OTP-2022-0121-R01 at 0128, para. 54 (Fr).

⁵⁵¹ **P-0622:** CAR-OTP-2022-0121-R01 at 0130, para. 70 (Fr).

⁵⁵² **P-0622:** CAR-OTP-2022-0121-R01 at 0129, para. 65 (Fr).

⁵⁵³ **P-0481:** CAR-OTP-2104-1024-R01 at 1028, paras. 15, 18 (Fr).

⁵⁵⁴ **P-0481:** CAR-OTP-2104-1024-R01 at 1042, paras. 102-106 (Fr).

- [REDACTED].⁵⁵⁵ ADAM was present when a detainee was tortured and interrogated on his involvement with BOZIZE in transmitting money for acts against the Seleka regime.⁵⁵⁶
- [REDACTED].⁵⁵⁷ [REDACTED].⁵⁵⁸
- P-3056 states that SAID accused him of supporting BOZIZE.⁵⁵⁹

199. 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.⁵⁶⁰

2. Pattern of conduct

200. The charged crimes as summarised in the DCC at paragraphs 33.a – t demonstrate a persecutory pattern of conduct from which the discriminatory intent can be reasonably inferred.⁵⁶¹

C. Individual Criminal Responsibility for Crimes at OCRB

1. Article 25(3)(a): Direct Co-Perpetration

201. SAID is charged with direct co-perpetration pursuant to article 25(3)(a) for crimes Counts 1–7 committed at OCRB. The elements of co-perpetration are:⁵⁶² (a) the existence of a common plan or agreement between two or more persons, including the accused,⁵⁶³ that includes “a critical element of criminality;”⁵⁶⁴ (b) the accused provided an essential contribution to the common plan;⁵⁶⁵ (c) the accused meant to

⁵⁵⁵ P-0547: CAR-OTP-2025-0566-R01 at 0579, para. 88 (Eng).

⁵⁵⁶ P-1737: CAR-OTP-2130-2086-R01 at 2098-2099, paras. 58-59 (Fr).

⁵⁵⁷ P-0547: CAR-OTP-2025-0566-R01 at 0573, para. 38 (Eng).

⁵⁵⁸ P-0547: CAR-OTP-2025-0566-R01 at 0578, paras. 78-83 (Eng).

⁵⁵⁹ P-3056: CAR-OTP-2130-6639-R01 at 6647, para. 43.

⁵⁶⁰ P-0481: CAR-OTP-2104-1024-R01 at 1042-1043, paras. 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 (Fr); P-1737: CAR-OTP-2130-2086-R01 at 2098-2099, paras. 58-59 (Fr).

⁵⁶¹ See also *supra*, paras. 71-74, 78-79.

⁵⁶² *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.

⁵⁶³ *Katanga & Ngudjolo* Confirmation Decision, para. 522.

⁵⁶⁴ *Lubanga* TJ, para. 984; *Prosecutor v. Thomas Lubanga Dyilo*, Decision on the confirmation of charges, 29 January 2007, ICC-01/04-01/06-803-tEN, (“*Lubanga* Confirmation Decision”), para. 344.

⁵⁶⁵ *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*,

engage in the conduct which constituted his essential contribution;⁵⁶⁶ (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;⁵⁶⁷ and (e) the accused was aware that the common plan or agreement involved an element of criminality;⁵⁶⁸ and of the factual circumstances that enabled him, together with other co-perpetrators, to jointly exercise control over the crime.⁵⁶⁹

202. The evidence shows that **SAID** and ADAM, TAHIR, DAMBOUCHA, YAYA, SALLET, RAKISS, AL-BACHAR, and other members of the OCRB-Seleka shared a common plan or agreement to target perceived BOZIZE supporters in Bangui by committing the types of crimes charged in Counts 1 - 7 at OCRB (“OCRB Common Plan”) and that contributed essentially to the common plan. The crimes charged in Counts 1 – 7 were committed by the co-perpetrators, including **SAID**, and occurred within the framework, and resulted from the implementation of the OCRB Common Plan. The OCRB Common Plan came into existence as soon as 12 April or when the first incident described above took place.

a) Common Plan/ Agreement to commit the crimes at OCRB

203. **SAID** committed the crimes charged in furtherance of a common plan or agreement he shared with his superior, ADAM; his deputy, TAHIR Babikir; and his other two subordinates DAMBOUCHA and YAYA Soumayele. In addition, the high-ranking Seleka SALLET, RAKISS and AL-BACHAR were members of this common plan. Their agreement was to target perceived BOZIZE supporters in Bangui by committing the crimes charged in Counts 1-7 at the OCRB (the “OCRB Common Plan”). This agreement can be reasonably inferred from the commission of the

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.

⁵⁶⁶ *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.

⁵⁶⁷ *Ongwen* TJ, para. 2788; *Katanga & Ngudjolo* Confirmation Decision, para. 533; *Prosecutor v. William Samoei Ruto and Joshua Arap Sang*, Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute, ICC-01/09-01/11-373, 25 January 2012 para. 292.

⁵⁶⁸ *Lubanga*, Confirmation Decision, paras. 361-365.

⁵⁶⁹ *Lubanga*, Confirmation Decision, paras. 366-367; *Katanga & Ngudjolo* Confirmation Decision, para. 538.

crimes, as they are summarised in paragraph 29-39 of the DCC as well as the actions of the co-perpetrators, including by SAID.⁵⁷⁰

b) Members of the common plan

204. The members of the OCRB Common Plan are those Seleka described above in paragraphs 96 – 97, 104. Additional information is provided here regarding the Seleka *not* directly stationed at OCRB but aligned with the OCRB and coordinating regularly with SAID and ADAM related to detainees at OCRB. These were the Seleka Generals RAKISS, SALLET, and AL-BACHAR.
205. 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),⁵⁷¹ a position he took up on 5 June 2013.⁵⁷² RAKISS's appointments were signed by DJOTODIA, at the proposal of then Minister of Public Security, Nouredine ADAM.⁵⁷³ He joined the Seleka on their decent on Bangui.⁵⁷⁴ 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.⁵⁷⁵ He was known as an ardent Seleka member.⁵⁷⁶ During 2013, RAKISS had the rank of General within the Seleka.⁵⁷⁷ P-1737, a [REDACTED], said that RAKISS was always in ADAM's company at the Ministry of Public Security.⁵⁷⁸ According to P-2240, [REDACTED], RAKISS would attend security meetings twice a week with

⁵⁷⁰ 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).

⁵⁷¹ **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).

⁵⁷² **CAR Decree:** [CAR-OTP-2034-2704](#).

⁵⁷³ **CAR Decree:** [CAR-OTP-2004-1385](#), at 1444; **CAR Decree:** [CAR-OTP-2005-0324](#).

⁵⁷⁴ **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).

⁵⁷⁵ **P-0787:** [CAR-OTP-2130-0893-R01](#) at 0909-0910, paras. 66-72 (Fr).

⁵⁷⁶ **CAR Primature Document:** [CAR-OTP-2101-3176](#) at 3178.

⁵⁷⁷ **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 3429.

⁵⁷⁸ **P-1737:** [CAR-OTP-2130-2086-R01](#) at 2098, para. 57 (Fr).

ADAM, ASSEID, AL-BACHAR and others.⁵⁷⁹ Multiple sources confirm that RAKISS attended security meetings a *Camp de Roux* with Seleka leaders including ADAM, AL-BACHAR, the heads of the Presidential Security, ASSEID and Issa ISSAKA, as well as the formal head of the police, Wanzet LINGUISSARA [REDACTED], and others.⁵⁸⁰

206. 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.⁵⁸¹ In his role he was senior to SAID, but SAID had day-to-day control on the ground at the OCRB and he reported directly to ADAM.⁵⁸² Nonetheless, as a General, RAKISS out-ranked SAID.⁵⁸³
207. AL-BACHAR⁵⁸⁴ was the deputy head of the intelligence agency known as the CEDAD at the time.⁵⁸⁵ AL-BACHAR organized the fighters on the ground prior to the Seleka's arrival in Bangui. ADAM was in contact with them, organizing 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.⁵⁸⁶ On 7 June 2013, AL-BACHAR was appointed *Directeur Général Adjoint* (Deputy Director General) of the CEDAD by presidential decree.⁵⁸⁷ 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.⁵⁸⁸

⁵⁷⁹ **P-2240**: CAR-OTP-2110-0780-R01 at 0787, para. 27 (Fr).

⁵⁸⁰ **P-0384**: CAR-OTP-2106-0314-R01 at 0341, para. 113 (Fr) [REDACTED]; **P-0964**: CAR-OTP-2092-3423-R01 at 3443-3444, lns. 693-767 (Fr) [REDACTED]; **P-2225**: CAR-OTP-2121-1936-R01 at 1942 (Fr) [REDACTED].

⁵⁸¹ **P-0964**: CAR-OTP-2092-3310-R01 at 3320-3321, lns. 345-395 [REDACTED]; **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).

⁵⁸² 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).

⁵⁸³ **P-0787**: CAR-OTP-2130-0893-R01 at 0909-0910, paras. 66-72 (Fr).

⁵⁸⁴ **Passport application Fadoul AL-BACHAR**: CAR-OTP-2013-0354-R01; **P-0349**: CAR-OTP-2074-0041-R01 at 0052, para. 61 (Fr).

⁵⁸⁵ See *supra*, para. 114.

⁵⁸⁶ **P-0964**: CAR-OTP-2092-3276-R01, lns. 394-403 (Fr); **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-2069-2543; CAR-OTP-2069-2747; CAR-OTP-2069-2889 (photographs showing AL-BACHAR with Seleka leadership in 2013).

⁵⁸⁷ **Decree 13.139**: CAR-OTP-2005-0328; **Decree 13.117**: CAR-OTP-2005-0377.

⁵⁸⁸ **P-0964**: CAR-OTP-2092-3276-R01 at 3286, lns. 396-408 (Fr). **P-2240**: CAR-OTP-2110-0780-R01 at 0787, para. 27 (Fr).

208. SALLET had a constant senior role at OCRB and recruited for OCRB.⁵⁸⁹ P-2563 describes that SAID was also working under the command of SALLET⁵⁹⁰ and would visit 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.⁵⁹¹ SALLET would usually visit OCRB weekly and most of the time, he would communicate daily with SAID over the phone.⁵⁹² Also, SALLET would give orders to SAID to put prisoners in the basement of the OCRB.⁵⁹³

c) Essential Contributions to the crimes under articles 25(3)(a)

209. SAID exercised control over the commission of the crimes charged in Counts 1 – 7 of the DCC by virtue of his essential contributions to the common plan. These are summarised in paragraph 38 of the DCC. 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 his involvement in crimes as well as documentation in support of his role of authority at OCRB.

i. Ordering the arrests of, arresting and detaining perceived BOZIZE supporters at OCRB – including the detention of victims in an underground cell situated under his office in the OCRB

210. The evidence shows that SAID coordinated on arrests and detention with ADAM, TAHIR, DAMBOUCHA, and YAYA on a regular basis according to [REDACTED] witnesses. In addition, the evidence shows that SAID arrested detainees together with SALLET, RAKISS and AL-BACHAR as outlined in paragraphs 33.a, h, j, k, n, o, p, q, s, and 38 of the DCC.⁵⁹⁴

211. This regular coordination regarding detainees also included other high-ranking Seleka, including President DJOTODIA and members of his Presidential Security at *Camp de*

⁵⁸⁹ P-1737: CAR-OTP-2130-2086-R01 at 2090, para. 20 (Fr).

⁵⁹⁰ P-2563: CAR-OTP-2118-2856-R01 at 2974, Ins. 617-632 (Eng); CAR-OTP-2118-2876-R01 at 2890, Ins. 477-478 (Eng).

⁵⁹¹ P-2563: CAR-OTP-2118-2856-R01 at 2861-2862, 2873, Ins. 161-192, 568-697 (Eng).

⁵⁹² P-2563: CAR-OTP-2118-2856-R01 at 2873-2974, Ins. 568-619 (Eng).

⁵⁹³ P-2563: CAR-OTP-2118-2897-R01 at 2903, Ins. 172-193 (Eng).

⁵⁹⁴ P-1737: CAR-OTP-2130-2086-R01 at 2100, paras. 64-67 (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. 32-37 (Fr); P-1737: CAR-OTP-2130-2086-R01 at 2098-2099, paras. 58-59 (Fr).

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 2013.⁵⁹⁵

212. Arrests and searches in Bangui were stepped up when **SAID** arrived at OCRB. P-2105 states that **SAID**’s men would go out, arrest people, and [torture] them in the courtyard.⁵⁹⁶ 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.⁵⁹⁷ 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.⁵⁹⁸ The presence of the police officers at the OCRB, however, had no impact on **SAID** carrying out his arrests, interrogations. According to P-2105 the police officers were merely figureheads.⁵⁹⁹ This is corroborated by P-0338, [REDACTED], but that ADAM and **SAID** would speak without involving him.⁶⁰⁰ Also the Seleka would go on nightly patrols without explaining to him.⁶⁰¹
213. **SAID** participated directly in the arrest and detention of the soldier [REDACTED] on [REDACTED] June 2013.⁶⁰²
214. P-1167 states that **SAID**, SALLET, DAMBOUCHA, and TAHIR would run their own arrests independent of the rapid interventions and bring in men to OCRB at night, which were all Christian.⁶⁰³ The auxiliary police officers were not involved in these arrests.
215. **SAID** had men perceived as supporting BOZIZE detained in a small basement under his office in the OCRB 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.⁶⁰⁴ **SAID**’s office had a basement under his office.⁶⁰⁵

⁵⁹⁵ **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).

⁵⁹⁶ **P-2105**: [CAR-OTP-2078-0003-R01](#) at 0014, para. 64 (Fr).

⁵⁹⁷ **P-2105**: [CAR-OTP-2078-0003-R01](#) at 0014, para. 66 (Fr); **P-0338**: [CAR-OTP-2130-5761-R01](#) at 5780, paras. 100-101 (Fr).

⁵⁹⁸ **P-2105**: [CAR-OTP-2078-0003-R01](#) at 0014, para. 66 (Fr).

⁵⁹⁹ **P-2105**: [CAR-OTP-2078-0003-R01](#) at 0014, para. 68 (Fr).

⁶⁰⁰ **P-0338**: [CAR-OTP-2130-5761-R01](#) at 5775-5776, paras. 75-76.

⁶⁰¹ **P-0338**: [CAR-OTP-2130-5761-R01](#) at 5775, para. 72.

⁶⁰² See DCC, para. 33.h and *supra*, para. 127.

⁶⁰³ **P-1167**: [CAR-OTP-2127-7671-R01](#) at 7691, para. 110 (Fr);

⁶⁰⁴ **P-2563**: [CAR-OTP-2130-4935-R01](#) at 4941, lns. 172-174 (Fr);

⁶⁰⁵ **P-2563**: [CAR-OTP-2130-4911-R01](#) at 4914-4915, lns. 55-96 (Fr); **P-2478**: [CAR-OTP-2110-0745-R01](#) at 0758, paras. 53-59 (Fr).

216. The evidence shows that **SAID** controlled access to the basement which was situated under his personal office in the main building of OCB and was known as the “hole”.⁶⁰⁶ According to P-2105, **SAID** was the one who started using the basement after he arrived at OCB.⁶⁰⁷
217. During the relevant time period, **SAID** was in charge at OCB and controlled access to the basement-prisoners under his office in the OCB building.⁶⁰⁸ P-2478 states that [REDACTED].⁶⁰⁹ 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.⁶¹⁰
- ii. Instructing OCB-Seleka to mistreat detainees who allegedly supported BOZIZE, including by tying them by the painful *arbatachar* method**
218. **SAID** would allow and support that his elements at OCB would tie detainees in the *arbatachar* manner, stating that this was the best way to achieve confessions.⁶¹¹
219. In addition, **SAID**, SALLET, TAHIR, and DAMBOUCHA all ordered the OCB-Seleka elements to beat detainees, including by splashing water on them and whipping them afterwards, which was also the method applied to the detainees arrested on [REDACTED] July for having Seleka critical Flyers in their possession.⁶¹²
220. **SAID**’s deputy YAYA tied [REDACTED] and interrogated him⁶¹³
221. P-1737 states “everyone was aware that it was happening including Colonel **SAID** and General Nouredine [ADAM].”⁶¹⁴

⁶⁰⁶ See *supra*, paras. 163-164.

⁶⁰⁷ **P-2105**: CAR-OTP-2078-0003-R01 at 0017, para. 84 (Fr).

⁶⁰⁸ **P-2478**: CAR-OTP-2110-0745-R01 at 0758, para. 53 (Fr) [REDACTED].

⁶⁰⁹ **P-2478**: CAR-OTP-2110-0745-R01 at 0758, para. 54 (Fr).

⁶¹⁰ **P-2563**: CAR-OTP-2130-4911-R01 at 4927, Ins. 490- 514 (Fr)

⁶¹¹ **P-0338**: CAR-OTP-2130-5761-R01 at 5781, para. 105 (Fr).

⁶¹² Paragraph 33.i of the DCC; **P-1167**: CAR-OTP-2127-7671-R01 at 7691, paras. 111-113 (Fr).

⁶¹³ See DCC, para. 33.p.; see also *supra*, para. 135.

⁶¹⁴ **P-1737**: CAR-OTP-2130-2086-R01 at 2098, para. 54 (Fr).

iii. Supplying the OCRB-Seleka with weapons, food, vehicles, uniforms, and ID cards

222. Together with ADAM, SAID supplied the Seleka at OCRB with food, weapons, vehicles, uniforms, ID cards and organised the Seleka at OCRB. According to P-0338, ADAM would come twice a day to ensure the supplies, such as food and give SAID money.⁶¹⁵
223. P-1167 states that SAID distributed the uniforms and weapons to the OCRB-Seleka.⁶¹⁶
224. According to P-2105, SAID would organize everything at the OCRB,⁶¹⁷ and oversaw the day-to-day operations.⁶¹⁸ Other witnesses corroborate that SAID was in the OCRB daily, usually at a table with chairs under a tree within the compound at OCRB.⁶¹⁹

iv. Interrogating detainees violently and supporting such interrogation methods by OCRB-Seleka

225. SAID also conducted violent interrogations from his desk under the tree.⁶²⁰ P-0787 and P-2105 state that his deputy, TAHIR, and YAYA were usually present with SAID during the interrogations.⁶²¹ P-3056 describes how SAID interrogated [REDACTED].⁶²²

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 judiciary

226. During the detention of each individual described in paragraphs 29-36 of the DCC, SAID, together with TAHIR and YAYA, oversaw the detentions as well as the detention conditions at OCRB. He also organised the daily business of the OCRB and held responsibility for securing the site.
227. SAID had his personal phone number painted on the side of his police vehicle.⁶²³ SAID would ensure that the OCRB Seleka were armed and ready for operations, in line with

⁶¹⁵ P-0338: CAR-OTP-2130-5761-R01 at 5774, para. 68 (Fr).

⁶¹⁶ P-1167: CAR-OTP-2127-7671-R01 at 7687, para. 88 (Fr).

⁶¹⁷ P-2105: CAR-OTP-2078-0003-R01 at 0015, para. 72 (Fr).

⁶¹⁸ P-2105: CAR-OTP-2078-0003-R01 at 0015, paras. 70, 72 (Fr); P-2563: CAR-OTP-2130-4890-R01 at 4896, lns. 169-171 (Fr).

⁶¹⁹ P-2563: CAR-OTP-2130-4935-R01 at 4940, lns. 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-R01 at 0750, para. 22 (Fr); *see also* Annex I CAR-OTP-2110-0769-R01.

⁶²⁰ 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).

⁶²¹ 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).

⁶²² P-3056: CAR-OTP-2130-6639-R01 at 6646-6647, paras. 41-44.

⁶²³ P-1167: CAR-OTP-2127-7671-R01 at 7688, para. 93 (Fr).

ADAM's instructions,⁶²⁴ and would ensure that ADAM's orders, including in relation to arrests, had been implemented.⁶²⁵ SAID distributed money given by ADAM to the OCRB Seleka⁶²⁶ including 2000 CFA for each time a Seleka element participated in a rapid intervention.⁶²⁷ SAID also distributed weapons to the Seleka on guard duty⁶²⁸ and distributed uniforms that ADAM provided for the OCRB Seleka.⁶²⁹ SAID issued orders at the OCRB, including in relation to prisoners he had arrested.⁶³⁰ Together with TAHIR, he distributed food to the Seleka.⁶³¹ 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.⁶³² SAID distributed the cards.⁶³³

228. 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.⁶³⁴ In the mornings, SAID conducted an inspection, during which prisoners at the OCRB were brought out of their cells and questioned.⁶³⁵ SAID's men were stationed inside the main building.⁶³⁶
229. SAID would order Seleka to bring detainees out of the cells to be interviewed by the judicial police.⁶³⁷ P-0787, [REDACTED], explains that SAID also dictated what the career police officers should investigate and what was passed to the prosecutor.⁶³⁸ Although MAZANGUE, himself a career police officer, was officially appointed as

⁶²⁴ P-0338: CAR-OTP-2130-5761-R01 at 5775, para.71 (Fr);

⁶²⁵ 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).

⁶²⁶ 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).

⁶²⁷ P-1167: CAR-OTP-2127-7671-R01 at 7689, para. 59 (Fr).

⁶²⁸ P-1167: CAR-OTP-2127-7671-R01 at 7684, para. 70 (Fr).

⁶²⁹ P-1167: CAR-OTP-2127-7671-R01 at 7687, para. 88 (Fr); P-1004: CAR-OTP-2130-1736-R01 at 1742, para. 35 (Fr).

⁶³⁰ P-1167: CAR-OTP-2127-7671-R01 at 7688, para. 94 (Fr).

⁶³¹ P-2478: CAR-OTP-2110-0745-R01 at 0749, para. 18 (Fr).

⁶³² 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).

⁶³³ P-1737: CAR-OTP-2130-2086-R01 at 2096, para. 47 (Fr).

⁶³⁴ 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, lns. 526-528; CAR-OTP-2118-2897-R01 at 2901-2902, lns. 105-150.

⁶³⁵ P-2105: CAR-OTP-2081-0037-R01 at 0039, para. 12 (Fr).

⁶³⁶ P-2105: CAR-OTP-2081-0037-R01 at 0009, para. 26 (Fr).

⁶³⁷ P-2478: CAR-OTP-2110-0745-R01 at 0749, para. 18 (Fr).

⁶³⁸ P-0787: CAR-OTP-2130-0893-R01 at 0902, para. 41 (Fr).

Director of the OCRB on 18 April 2013,⁶³⁹ and **SAID** was his deputy,⁶⁴⁰ career police officers based at the OCRB had to comply with **SAID's** orders.⁶⁴¹ [REDACTED].⁶⁴²

230. **SAID** took his own men on field operations and sometimes he would join his forces with TAHIR's men in the field.⁶⁴³ Both would take the OCRB intervention vehicles with their phone numbers written on them so that they could be informed if they needed to deploy Seleka forces to the field.⁶⁴⁴ [REDACTED].⁶⁴⁵ These patrols and operations were part of the crime intervention policy established at OCRB through the Seleka.⁶⁴⁶
231. According to P-2105, **SAID** would brief 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 would inform ADAM about their background.⁶⁴⁷ ADAM would question the prisoners to check their version of events according with what **SAID** had said, and would ensure the people whose names he had given to **SAID** were in fact arrested.⁶⁴⁸
232. According to P-2240, **SAID** was in charge of detentions and would report to ADAM.⁶⁴⁹ When ADAM came to the OCRB, he would typically be briefed by **SAID**⁶⁵⁰ or else speak to him by phone.⁶⁵¹ 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.⁶⁵² When at the OCRB, ADAM would check the event notebook and ask **SAID** to explain matters to him.⁶⁵³ ADAM and **SAID** would meet inside the main building.⁶⁵⁴ **SAID** was also involved in questioning prisoners

⁶³⁹ **CAR Government document:** CAR-OTP-2034-1740.

⁶⁴⁰ **P-1737:** CAR-OTP-2130-2086-R01 at 2091, para. 24 (Fr).

⁶⁴¹ **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).

⁶⁴² **P-1737:** CAR-OTP-2130-2086-R01 at 2093, para. 29 (Fr).

⁶⁴³ **P-2478:** CAR-OTP-2110-0745-R01 at 0749-0750, para. 20 (Fr).

⁶⁴⁴ **P-2478:** CAR-OTP-2110-0745-R01 at 0749-0750, para. 20 (Fr).

⁶⁴⁵ **P-2563:** CAR-OTP-2130-4890-R01 at 4897, lns. 177-193 (Fr).

⁶⁴⁶ **P-1737:** CAR-OTP-2130-2086-R01 at 2093, paras. 31-33 (Fr).

⁶⁴⁷ **P-2105:** CAR-OTP-2078-0003-R01 at 0015, para. 73 (Fr).

⁶⁴⁸ **P-2105:** CAR-OTP-2078-0003-R01 at 0015, para. 73 (Fr).

⁶⁴⁹ **P-2240:** CAR-OTP-2110-0780-R01 at 0789, para. 31 (Fr).

⁶⁵⁰ **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).

⁶⁵¹ **P-2240:** CAR-OTP-2110-0780-R01 at 0790, para. 33 (Fr).

⁶⁵² **P-2563:** CAR-OTP-2130-4935-R01 at 4942, lns. 197-212 (Fr).

⁶⁵³ **P-2563:** CAR-OTP-2130-4911-R01 at 4923, lns. 377-379 (Fr).

⁶⁵⁴ **P-2563:** CAR-OTP-2130-4911-R01 at 4924, lns. 385-386 (Fr).

himself.⁶⁵⁵ OCRB Seleka always took part in the interrogation of prisoners on SAID's orders.⁶⁵⁶

233. 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 them to check that their accounts were coherent with what was in the log-book.⁶⁵⁷
234. Secretaries working at the OCRB would prepare summons that were signed by SAID⁶⁵⁸ and register the names of people who were arrested in an incident log book.⁶⁵⁹ After the prisoners were registered, they would be taken to the office of SAID. If SAID was not there, they would be left in the courtyard.⁶⁶⁰ If they had been arrested for a minor matter they could often be released, but if it were more serious, SAID would determine which cell they should be kept in.⁶⁶¹ The secretaries reported everything to SAID. SAID also met with the Prosecutor regularly.⁶⁶²
235. He received detainees from other detention centres such as the *Camp des Sapeurs-Pompiers*, which was run by the Sudanese Moussa ASSIMEH⁶⁶³, as well as *Camp de Roux*,⁶⁶⁴ which was the President's base.⁶⁶⁵

⁶⁵⁵ **P-2563**: [CAR-OTP-2130-4935-R01](#) at 4945, lns. 321-324 (Fr).

⁶⁵⁶ **P-2105**: [CAR-OTP-2078-0003-R01](#) at 0016, para. 79 (Fr).

⁶⁵⁷ **P-2105**: [CAR-OTP-2081-0037-R01](#) at 0039, para. 12 (Fr).

⁶⁵⁸ **P-2161**: [CAR-OTP-2127-9323-R01](#) at 9334, para. 55 (Fr).

⁶⁵⁹ **P-2161**: [CAR-OTP-2127-9323-R01](#) at 9334, para. 56 (Fr).

⁶⁶⁰ **P-2161**: [CAR-OTP-2127-9323-R01](#) at 9334-9335, paras. 57, 60 (Fr).

⁶⁶¹ **P-2161**: [CAR-OTP-2127-9323-R01](#) at 9334, para. 57 (Fr).

⁶⁶² **P-2161**: [CAR-OTP-2127-9323-R01](#) at 9335, para. 59 (Fr).

⁶⁶³ **P-1420**: [CAR-OTP-2130-1827-R01](#) at 1846, para. 101 (Fr); **P-0234**: [CAR-OTP-2005-5407-R01](#) at 5412, para. 36 (Fr).

⁶⁶⁴ **P-1180**: [CAR-OTP-2127-7599-R01](#) at 7622, paras. 152-153 (Fr); See also **P-2257**: [CAR-OTP-2125-0909-R01](#) at 0913, para. 26 (Eng); **P-2293**: [CAR-OTP-2125-0864-R01](#) at 0871, para. 43 (Eng); P.V. No. 0133 / CME-OPJ, [CAR-OTP-2005-1917-R01](#) at 1919-1926; **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); **P-2253**: [CAR-OTP-2130-5793-R01](#), at 5801 para. 53 (Fr); [CAR-OTP-2089-1114-R01](#) at 1121, para. 53 (Eng); **P-1675**: [CAR-OTP-2091-0054-R01](#) at 0064, para. 54 (Fr); **P-2300**: [CAR-OTP-2091-3226-R01](#) at 3229; **P-2279**: [CAR-OTP-2127-9728-R01](#), at 9742-9743, para. 72 (Fr); **P-2294**: [CAR-OTP-2127-9537-R01](#), at 9545, para. 40 (Fr); [CAR-OTP-2127-9292-R01](#) at 9299, para. 40 (Eng). See also **Media Article**: [CAR-OTP-2088-2811](#) at 2813; UNFFM Report: [CAR-OTP-2034-0270](#) at 0286, paras. 83-84.

⁶⁶⁵ **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); **P-1644**: [CAR-OTP-2107-1382-R01](#) at 1391, para. 50 (Fr); **P-1579**: [CAR-OTP-2130-1929-R01](#) at 1938, para. 40 (Fr); **P-1399**: [CAR-OTP-2130-1948-R01](#) at 1955, para. 35 (Fr).

**vi. Creating an atmosphere conducive to the crimes charged at the
OCRB**

236. **SAID** demonstrated violent behaviour towards detainees at OCRB and thus encouraged their mistreatment by his subordinates.⁶⁶⁶ **SAID** also made statements openly in favour of the *arbatachar* method thereby encouraging his subordinates to apply it.⁶⁶⁷

d) Intent and Knowledge

237. **SAID** meant to engage in the conduct described above and intended to bring about the objective elements of crimes charged in Counts 1-7. He was also aware that the implementation of the OCRB Common Plan would, in the ordinary course of events, result in the commission of the type of crimes charged in Counts 1-7. This can be reasonably inferred from the evidence regarding his role at OCRB⁶⁶⁸ as well as from the essential contributions as set out above.

238. **SAID** was aware that the OCRB Common Plan involved an element of criminality. He was further aware of this 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.

239. This is evidenced by the accounts of [REDACTED] witnesses who place him at the OCRB at all times relevant to the charges.⁶⁶⁹ 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.⁶⁷⁰ P-2161 also states that all prisoners were taken first to **SAID**.⁶⁷¹

240. P-1167 says that he used to see **SAID**, along with SALLET, TAHIR and DAMBOUCHA, bring in groups of prisoners to the OCRB,⁶⁷² that family members of prisoners and others would go inside the main house to speak with **SAID** and that **SAID** used to receive ransom money in exchange of release of prisoners.⁶⁷³

⁶⁶⁶ **P-3056**: CAR-OTP-2130-6639-R01 at 6646-6649, paras. 41-52.

⁶⁶⁷ *See supra*, para. 222.

⁶⁶⁸ *See supra*, para. 94-106.

⁶⁶⁹ **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).

⁶⁷⁰ **P-2563**: CAR-OTP-2130-4935-R01 at 4945, lns. 321-324 (Fr).

⁶⁷¹ **P-2161**: CAR-OTP-2127-9323-R01 at 9334-9335, paras. 57, 60 (Fr).

⁶⁷² **P-1167**: CAR-OTP-2127-7671-R01 at 7691, para. 110 (Fr).

⁶⁷³ **P-1167**: CAR-OTP-2127-7671-R01 at 7694-7695, paras. 129, 132 (Fr).

241. **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.⁶⁷⁴ 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.⁶⁷⁵ P-0547 saw **SAID** talking to RAKISS not far from the prison cells in August 2013.⁶⁷⁶ P-2478 says that **SAID** was in his office when family members of a mistreated prisoner came to see the commander.⁶⁷⁷
242. 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.⁶⁷⁸ 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.⁶⁷⁹

2. Article 25(3)(b): Ordering

243. 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 of the DCC. The evidence shows that **SAID** instructed OCRB Seleka members to mistreat detainees for allegedly supporting François BOZIZE or the Anti-Balaka, including on the orders of ADAM.⁶⁸⁰ **SAID** also referred to the “*arbatachar*” technique used on OCRB detainees as “the most effective to obtain confessions”.⁶⁸¹ He did not intervene to stop the mistreatment of detainees by OCRB Seleka members.⁶⁸²
244. **SAID** gave instructions to his subordinates to detain men in the small, dark and overcrowded underground cell under his office, where they were provided little food and water and no independent review of their detention .⁶⁸³

⁶⁷⁴ **P-2105**: CAR-OTP-2078-0003-R01 at 0019, para. 98 (Fr).

⁶⁷⁵ **P-0787**: CAR-OTP-2130-0893-R01 at 0916, para. 98 (Fr).

⁶⁷⁶ **P-0547**: CAR-OTP-2018-0389-R01 at 0413, paras. 179-180 (Fr).

⁶⁷⁷ **P-2478**: CAR-OTP-2110-0745-R01 at 0754, para. 37 (Fr).

⁶⁷⁸ *See supra*, para. 147.

⁶⁷⁹ **P-0787**: CAR-OTP-2130-0893-R01 at 0907, para. 59 (Fr). *See supra*, paras. 163-164.

⁶⁸⁰ **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).

⁶⁸¹ **P-0338**: CAR-OTP-2130-5761-R01 at 5781, para. 105 (Fr).

⁶⁸² **P-0338**: CAR-OTP-2130-5761-R01 at 5780-5781, paras. 102, 106 (Fr).

⁶⁸³ **P-2105**: CAR-OTP-2078-0003-R01 at 0017, para. 84 (Fr); **P-2478**: CAR-OTP-2110-0745-R01, at 0758, para. 53 (Fr).

245. The evidence — especially the accounts provided by the [REDACTED] witnesses interviewed as well as some of the victims detained — shows that **SAID** meant to engage in this conduct and was aware of his position of authority over the physical perpetrators of the crimes. **SAID** meant for the OCRB-Seleka, including TAHIR, DAMBOUCHA and YAYA, to commit these crimes and/or was aware that, in the ordinary course of events, they would commit the crimes, and was aware that his conduct would contribute to their commission.

3. Article 25(3)(b): Inducing

246. In the alternative, through the conduct described above at paragraphs 209 - 236 (essential contributions), **SAID** induced the OCRB-Seleka to commit the charged crimes. Overall, **SAID** exerted significant influence over the OCRB-Seleka, prompting them to commit the charged crimes.

247. In addition, the evidence shows that **SAID** and TAHIR provided incentives to OCRB-Seleka to detain persons arbitrarily at OCRB by extorting the detainees or their families.⁶⁸⁴ P-1167 explains that he saw **SAID** receiving money on several occasions and the ransom would range from amounts like 30,000 CFA for ordinary people to several millions.⁶⁸⁵ P-2478 explains that the OCRB was like a business for TAHIR and **SAID**.⁶⁸⁶

248. **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.

4. Article 25(3)(c): Aiding, Abetting, or otherwise Assisting

249. In the alternative, **SAID** is charged, pursuant to article 25(3)(c), with aiding, abetting or otherwise assisting crimes committed in connection with the OCRB. To establish responsibility under “aiding, abetting or otherwise assisting”, it is necessary to prove that: (i) the accused facilitated or furthered the commission of the crime;⁶⁸⁷ (ii) the accused

⁶⁸⁴ **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-R01](#) at 0750, para. 21 (Fr).

⁶⁸⁵ **P-1167**: [CAR-OTP-2127-7671-R01](#) at 7695, para. 132 (Fr).

⁶⁸⁶ **P-2478**: [CAR-OTP-2110-0745-R01](#) at 0750, para. 21 (Fr).

⁶⁸⁷ *Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*, Public Redacted Judgment on the appeals of Mr Jean-Pierre Bemba Gombo, Mr Aimé Kilolo Musamba, Mr Jean-Jacques Mangenda Kabongo, Mr Fidèle Babala Wandu and Mr Narcisse

acted for the purpose of facilitating the commission of the crime;⁶⁸⁸ (iii) the accused was at least aware that the physical perpetrator's offence was to occur in the ordinary course of events.⁶⁸⁹

250. By virtue of his role and his contributions to the crimes as outlined in paragraphs 209 – 236 **SAID** aided, abetted and/or otherwise assisted the Seleka operating at the OCRB in the commission of the crimes charged in Counts 1 - 7, including by his continuous presence at the OCRB, the active role he took as their superior and his implicit and explicit approval of the crimes.
251. The evidence, as set out above, also shows that **SAID** intended to facilitate the commission of the crimes committed against detainees at OCRB by the OCRB Seleka at the time relevant to the charges. In addition, the evidence regarding the types of crimes committed by his subordinates at OCRB shows that **SAID** was aware that the Seleka under his command would, in the ordinary course of events, commit the type of crimes charged in Counts 1 - 7 of the DCC.

5. Article 25(3)(d): Common purpose liability

252. In the alternative, **SAID** is also charged under article 25(3)(d) (“common purpose”) as he intentionally contributed to the commission of the crimes committed by the Seleka elements and leaders at the OCRB who acted pursuant to a common purpose. To establish responsibility under “common purpose,” it is necessary to prove that: (i) the accused contributed to the commission of the crime, which was attempted or committed by a group of people acting with a common purpose;⁶⁹⁰ (ii) the contribution was intentional;⁶⁹¹ and (iii) the contribution was made either with the aim of furthering the criminal activity

Arido against the decision of Trial Chamber VII entitled “Judgment pursuant to Article 74 of the Statute, ICC-01/05-01/13-2275-Red, 8 March 2018 (“*Bemba et al. AJ*”), para. 1327.

⁶⁸⁸ *Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*, Public Redacted Version of Judgment Pursuant to Article 74 of the Statute, ICC-01/05-01/13-1989-Red, 19 October 2016, (“*Bemba et al. TJ*”), para. 97.

⁶⁸⁹ *Bemba et al. TJ*, para. 98.

⁶⁹⁰ *Prosecutor v. Callixte Mbarushimana*, Decision on the Confirmation of Charges, ICC-01/04-01/10-465-Red, 16 December 2011 (“*Mbarushimana Confirmation Decision*”), para. 271; *Prosecutor v. Callixte Mbarushimana*, Decision on the Prosecutor's Application for a Warrant of Arrest against Callixte Mbarushimana, ICC-01/04-01/10-1, 28 September 2010 (“*Mbarushimana Arrest Warrant Decision*”), para. 39; ICC-01/04-01/07-3436-tENG, para. 1631.

⁶⁹¹ *Mbarushimana Arrest Warrant Decision*, para. 39; *Katanga TJ*, para. 1638.

or criminal purpose of the group, or in the knowledge of the intention of the group to commit the crime.⁶⁹²

253. The common purpose was identical to the “common plan” outlined above in paragraph 203. The common purpose of the Seleka at the OCRB was to target perceived BOZIZE supporters by committing crimes charged in Counts 1 - 7 of the DCC at the OCRB. As outlined in paragraphs 193 - 196, the civilians affected by the crimes were overwhelmingly from the Gbaya, Banda, or Mandja ethnic groups, Christians, from certain neighbourhoods of Bangui and predominantly male. This common purpose materialised on or about 12 April 2013, when **SAID** was appointed to head the OCRB by ADAM.
254. As set out in subsections on his role above, **SAID** was a member of the Seleka, was in charge of the OCRB and contributed to the commission of the crimes charged in Counts 1-7 of the DCC. He contributed to the crimes, which were committed by Seleka elements and leaders such as his superior ADAM by acting pursuant to the common purpose and with the aim of furthering the criminal activity or the criminal purpose of the elements of the Seleka at OCRB in Bangui who committed those crimes, or in the knowledge of the intention of the elements of this Group to commit those crimes.

D. Charged Crimes at CEDAD (Counts 8 - 14)

1. Overview

255. In Counts 8 – 14 of the DCC, **SAID** is charged with crimes against humanity, committed as part of a widespread and systematic attack against the civilian population, namely imprisonment and other severe deprivation of physical liberty (article 7(1)(e)), torture (article 7(1)(f)), persecution (article 7(1)(h)) and other inhumane acts (article 7(1)(k)). In addition, he is charged with war crimes, namely torture (article 8(2)(c) (1)-4 and cruel treatment (article 8(2)(c) (1)-3).
256. From at least 15 September 2013 until 8 November 2013,⁶⁹³ **SAID** — together with AL-BACHAR and other former OCRB-Seleka, arrested at least 32 men and one woman and detained them at CEDAD.⁶⁹⁴ The detainees at the CEDAD were arrested for being

⁶⁹² *Mbarushimana* Arrest Warrant Decision, para. 39.

⁶⁹³ **P-2210: CAR-OTP-2130-5368-R01**, at 5380, para. 56 (Fr).

⁶⁹⁴ See also **List of Victims: CAR-OTP-2013-0058-R01, CAR-OTP-2018-0477**. Estimates provided by victims range to up to around 40 persons detained at one time but only the victims sufficiently identified or described have been included in the DCC.

perceived supporters of BOZIZE in order to interrogate and punish them without interference from official law enforcement or the judiciary. The CEDAD Seleka mistreated these detainees, including by torture, for several weeks. The detainees did not know where they had been taken, did not receive a review of their detention, had no access to even the most basic due process guarantees, were held in inhumane conditions, physically mistreated, and were denied contact with their family members.⁶⁹⁵

2. Incidents at CEDAD

257. The incidents summarised in paragraphs 64.a-n of the DCC are based on the following evidence.⁶⁹⁶

a) P-0664

258. The material facts for the incident relating to P-0664 as set out in paragraph 64.a of the DCC are based on his personal account which is corroborated by other detainees.⁶⁹⁷

b) P-0758

259. The incident relating to P-0758 as summarised in paragraph 64.b of the DCC is based on his personal account and corroborated by P-0664.⁶⁹⁸

c) P-0940, P-0854 and [REDACTED]

260. The material facts provided in paragraph 64.c of the DCC are based on the accounts given by P-0940 and P-0854.⁶⁹⁹

⁶⁹⁵ **P-0500**: [CAR-OTP-2122-3490-R01](#) at 3502-3506, paras. 57-61 (Fr); **P-0666**: [CAR-OTP-2060-0251-R01](#) at 0259, para. 41 (Fr).

⁶⁹⁶ In this document the alleged material facts are not repeated as they are summarised for each sub-incident in the DCC and included here by reference.

⁶⁹⁷ **P-0664**: [CAR-OTP-2104-0540-R01](#) at 0543-0558, paras. 13-168 (Fr); **P-0664 Annexes 1-6**: [CAR-OTP-2023-1362-R01](#); [CAR-OTP-2023-1371](#); [CAR-OTP-2023-1372-R01](#); [CAR-OTP-2023-1375-R01](#); [CAR-OTP-2023-1377-R01](#); [CAR-OTP-2023-1384-R01](#); *See also* **P-0545**: [CAR-OTP-2122-3626-R01](#) at 3633, para. 40 (Fr); **P-0662**: [CAR-OTP-2130-5398-R01](#), at 5410-5418, paras. 37-67 (Fr); **P-0487**: [CAR-OTP-2076-0102-R01](#) at 0108-0109, Ins. 212-216 (Fr); **P-0659**: [CAR-OTP-2130-0873-R01](#) at 0888 (Fr); **P-0665 Annex**: [CAR-OTP-2023-1244](#); **P-0482**: [CAR-OTP-2018-0454-R01](#) at 0469, para. 102 (Fr); [CAR-OTP-2013-0058-R01](#).

⁶⁹⁸ **P-0758**: [CAR-OTP-2127-9348-R01](#) at 9351-9359, paras. 14-90 (Fr); **P-0758 Annexes 1-3**: [CAR-OTP-2023-1302](#); [CAR-OTP-2023-1303](#); [CAR-OTP-2023-1401-R01](#); **P-0758**: [CAR-OTP-2027-0220-R01](#) at 0222-0223, paras. 12-21 (Fr); [CAR-OTP-2023-1401-R01](#); **P-0664**: [CAR-OTP-2104-0540-R01](#) at 0547, paras. 52-54 (Fr).

⁶⁹⁹ **P-0940**: [CAR-OTP-2127-9380-R01](#) at 9383-9391, paras. 13-58 (Fr); **Report**: [CAR-OTP-2009-4979](#); List of FACA Members: [CAR-OTP-2062-0657](#); **P-1399 Annex C**: [CAR-OTP-2064-0175](#); **P-0854**: [CAR-OTP-2127-9394-R01](#) at 9397-9406, para. 13-62 (Fr); **P-0854 Annex C**: [CAR-OTP-2081-0415](#); **P-0665**: [CAR-OTP-2033-7960-R01](#) at 7965, para. 37 (Fr).

d) P-0545 and P-0662

261. The material facts summarised in paragraph 64.d of the DCC in relation to P-0545 and P-0662 are based on their own accounts and materials provided by the witnesses.⁷⁰⁰ Their detention is also corroborated by other detainees.⁷⁰¹

e) P-0665

262. The incident related to P-0665 as summarised in paragraph 64.e of the DCC is based on his personal account⁷⁰² and corroborated by other detainee witnesses.⁷⁰³ Two [REDACTED] witnesses speak about his detention and SAID's involvement.⁷⁰⁴ [REDACTED].⁷⁰⁵

f) P-0803 and P-0969

263. The incident in relation to P-0803 and P-0969 as summarised in paragraph 64.f of the DCC is based on the personal account of P-0803,⁷⁰⁶ which is corroborated by a screening of P-0969.⁷⁰⁷ [REDACTED].⁷⁰⁸

⁷⁰⁰ **P-0545:** CAR-OTP-2122-3626-R01 at 3628-3639, para. 13-85 (Fr); **P-0545 Annexes 1-8:** CAR-OTP-2047-0126, CAR-OTP-2047-0127, CAR-OTP-2047-0128, CAR-OTP-2047-0129, CAR-OTP-2047-0130, CAR-OTP-2047-0131, CAR-OTP-2047-0132; CAR-OTP-2047-0133; CAR-OTP-2047-0134; CAR-OTP-2047-0137; CAR-OTP-2047-0138-R01; CAR-OTP-2047-0017; CAR-OTP-2047-0139-R01; CAR-OTP-2047-0141; CAR-OTP-2047-0017; **P-0545:** CAR-OTP-2102-0293-R01 at 0295-0302, paras. 13-52 (Fr); **P-0664:** CAR-OTP-2104-0540-R01 at 0555, paras. 139-140 (Fr); **UN COI Report:** CAR-OTP-2053-0460-R01; **P-0482:** CAR-OTP-2018-0454-R01 at 0467-0469, paras. 94-102 (Fr); **P-0546:** CAR-OTP-2030-2023-R01 at 2028-2032, paras. 41-95 (Fr); **P-0487:** CAR-OTP-2076-0102-R01 at 0108, ln. 207 (Fr); **P-0531:** CAR-OTP-2122-3527-R01 at 3533-3537, paras. 29-63 (Fr); **P-0758:** CAR-OTP-2127-9348-R01 at 9354-9358, paras. 40-80 (Fr); **P-0854:** CAR-OTP-2127-9394-R01 at 9406, para. 61 (Fr); **P-0662:** CAR-OTP-2130-5398-R01, at 5401-5407, paras. 16-29 (Fr); CAR-OTP-2013-0058-R01, CAR-OTP-2018-0477; **P-3049** (screening): CAR-OTP-2127-9637-R01 at 9639-9641.

⁷⁰¹ **P-0531:** CAR-OTP-2122-3527-R01 at 3533, para. 29, 3537, paras. 56-63 (Fr); **P-0758:** CAR-OTP-2127-9348-R01 at 9354, para. 40-43, 9358, para. 80 (Fr); **P-0854:** CAR-OTP-2127-9394-R01 at 9406, para. 61 (Fr).

⁷⁰² **P-0665:** CAR-OTP-2033-7960-R01 at 7963-7967, paras. 20-33, 36-41, 43-52 (Fr); **Annexes 1-7:** CAR-OTP-2033-7970; CAR-OTP-2033-7972; CAR-OTP-2033-7974; CAR-OTP-2033-7975; CAR-OTP-2033-7976; CAR-OTP-2033-7977; CAR-OTP-2033-7978; **List of FACA Members:** CAR-OTP-2062-0657.

⁷⁰³ **P-0482:** CAR-OTP-2018-0454-R01 at 0463-0469, paras. 61-102 (Fr); **P-0545:** CAR-OTP-2122-3626-R01 at 3633, para. 44 (Fr); **P-0666:** CAR-OTP-2060-0251-R01 at 0257, para. 30 (Fr); **P-0854:** CAR-OTP-2127-9394-R01 at 9403, para. 44 (Fr); **P-0664:** CAR-OTP-2104-0540-R01 at 0557, para. 156 (Fr); **P-0940:** CAR-OTP-2127-9380-R01 at 9390, para. 47 (Fr); **P-3048** (Screening): CAR-OTP-2130-4790-R01 at 4793 (Fr).

⁷⁰⁴ See *infra*, paras. 331-332.

⁷⁰⁵ CAR-OTP-2088-2689; CAR-OTP-2088-2693 at 2694.

⁷⁰⁶ **P-0803:** CAR-OTP-2070-0966-R01 at 0968-0972, paras. 13-45 (Fr); **P-0663:** CAR-OTP-2122-3583-R01 at 3592, para. 60 (Fr).

⁷⁰⁷ **P-0969** (screening): CAR-OTP-2031-0049-R01 at 0051-0052 (Eng).

⁷⁰⁸ CAR-OTP-2088-2685 at 2687.

g) P-0482

264. The material facts summarised in the DCC in paragraph 64.g regarding P-0482 are based on his personal account,⁷⁰⁹ which is corroborated by other detainees.⁷¹⁰

h) P-0663 and P-0797

265. The material facts as summarised in paragraph 64.h of the DCC relevant to the arrest, detention and mistreatment of P-0663 are based on the accounts of the two witnesses.⁷¹¹ Other detainees corroborate their account.⁷¹²

i) P-0792

266. The incident relating to P-0792 as summarised in paragraph 64.i of the DCC is based on his account and documentation he has provided, including documentary evidence.⁷¹³ His account is corroborated by other witnesses, including P-0964.⁷¹⁴

j) P-0500 and P-0531

267. The incident in relation to P-0500 and P-0531 as described in paragraph 64.j of the DCC is based on their personal accounts, which they supplement with photographs

⁷⁰⁹ **P-0482**: CAR-OTP-2018-0454-R01 at 0457-0472, paras. 14-117 (Fr); **P-0482 Annexes 1-8**: CAR-OTP-2018-0476; CAR-OTP-2018-0477; CAR-OTP-2018-0478; CAR-OTP-2018-0481; CAR-OTP-2018-0489; CAR-OTP-2018-0496; CAR-OTP-2018-0497; CAR-OTP-2018-0505.

⁷¹⁰ **P-0531**: CAR-OTP-2122-3527-R01 at 3537, para. 57 (Fr); **P-0663**: CAR-OTP-2122-3583-R01 at 3592, para. 60 (Fr); **P-0664**: CAR-OTP-2104-0540-R01 at 0558, para. 164 (Fr); **P-0546**: CAR-OTP-2030-2023-R01 at 2028, para. 41 and 2032, para. 95 (Eng); **P-0545**: CAR-OTP-2122-3626-R01 at 3633, para. 38 (Fr); **P-0662**: CAR-OTP-2130-5398-R01 at 5413, para. 46 (Fr); **P-0659 Annex**: CAR-OTP-2023-1244 at 1245 (Fr); CAR-OTP-2013-0058-R01; CAR-OTP-2053-0460-R01.

⁷¹¹ **P-0663**: CAR-OTP-2122-3583-R01 at 3586-3595, paras. 11-80 (Fr); **P-0663 Annexes**: CAR-OTP-2023-0551; CAR-OTP-2023-0552; CAR-OTP-2023-0553; CAR-OTP-2023-0554-R01; CAR-OTP-2023-1244; **P-0797**: CAR-OTP-2130-0861-R01 at 0865-0870, paras. 10-41 (Fr); **P-0797 Annexes**: CAR-OTP-2023-0708; CAR-OTP-2023-0870; CAR-OTP-2023-0871; CAR-OTP-2023-0872; CAR-OTP-2023-0873; CAR-OTP-2023-0874; CAR-OTP-2023-0875; CAR-OTP-2023-0876; CAR-OTP-2023-0877; CAR-OTP-2023-0878.

⁷¹² **P-0546**: CAR-OTP-2030-2023-R01 at 2028, para. 41, at 2033, para. 95 (Fr); CAR-OTP-2018-0477; **P-0664**: CAR-OTP-2104-0540-R01 at 0555, para. 141 (Fr).

⁷¹³ **P-0792**: CAR-OTP-2066-0888-R01 at 0893-0910, 0915, paras. 31-59, 62-66, 77-79, 85-88, 90, 93-98, 100-119, 145 (Fr); **P-0792 Annexes**: **Annex A**: CAR-OTP-2066-0919; **Annex C-1**: CAR-OTP-2066-0930; **Annex C-2**: CAR-OTP-2066-0931; **Annex C-3**: CAR-OTP-2066-0932; **Annex C-4**: CAR-OTP-2066-0933.

⁷¹⁴ **P-0789**: CAR-OTP-2130-0820-R01 at 0832-0833, paras. 77-85 (Fr); **P-0435**: CAR-OTP-2104-0954-R01 at 0985, paras. 170-173 (Fr); **P-0760**: CAR-OTP-2130-0792-R01 at 0809, para. 99 (Fr); **P-0787**: CAR-OTP-2130-0893-R01 at 0904, para. 47 (Fr); **P-0662**: CAR-OTP-2130-5398-R01 at 5413, para. 49 (Fr); **P-0964**: CAR-OTP-2092-3276-R01 at 3298-3300, Ins. 819-908 (Fr); CAR-OTP-2092-3310-R01 at 3343-3345, Ins. 1162-1239 (Fr); CAR-OTP-2092-3347-R01 at 3374, Ins. 922-930 (Fr).

and medical documentation.⁷¹⁵ P-0500's account of his [REDACTED] is corroborated by P-0977.⁷¹⁶

k) P-0546

268. The arrest and detention of P-0546 as summarised in paragraph 64.k of the DCC is based on his personal account,⁷¹⁷ which is corroborated by other witnesses.⁷¹⁸

l) P-0658

269. The material facts summarised in relation to P-0658 in paragraph 64.l of the DCC are based on his personal account.⁷¹⁹ In addition, he is corroborated by other detainees.⁷²⁰

m) P-0666

270. The material facts summarised in paragraph 64.m of the DCC regarding P-0666 are based on his personal account.⁷²¹ He is corroborated by P-0482 and P-0658.⁷²²

n) P-0487, P-2210 and [REDACTED]

271. The arrest and detention of P-0487 and P-2210 and [REDACTED] as described in the DCC in paragraph 64.n are based on the accounts of P-0487, P-2210, P-0545 and P-0482.⁷²³

⁷¹⁵ **P-0500:** [CAR-OTP-2122-3574-R01](#) at 3577-3580, paras. 13-25 (Fr); **P-0500 Annexes:** [CAR-OTP-2023-0505](#); [CAR-OTP-2023-0507](#); [CAR-OTP-2023-0509](#); [CAR-OTP-2023-0511](#); [CAR-OTP-2023-0513](#); [CAR-OTP-2023-0515](#); [CAR-OTP-2023-0517](#); [CAR-OTP-2023-0519](#); [CAR-OTP-2023-0521](#); [CAR-OTP-2023-0523](#); [CAR-OTP-2023-0525](#); [CAR-OTP-2023-0527](#); [CAR-OTP-2023-0529](#); [CAR-OTP-2023-0531](#); [CAR-OTP-2013-0593-R01](#); [CAR-OTP-2013-0594-R01](#); [CAR-OTP-2013-0595](#); [CAR-OTP-2013-0596](#); [CAR-OTP-2013-0597](#); Sketch: [CAR-OTP-2013-0640](#); **P-0500 Photos:** [CAR-OTP-2013-0645](#); [CAR-OTP-2013-0646](#); [CAR-OTP-2013-0647](#); Video: [CAR-OTP-2016-0229](#); [CAR-OTP-2023-1244](#); [CAR-OTP-2045-0455-R01](#); **P-0531:** [CAR-OTP-2122-3527-R01](#) at 3530-3539, paras. 16-71 (Fr); **P-0531 Annexes:** [CAR-OTP-2015-0023](#); [CAR-OTP-2015-0025](#); [CAR-OTP-2015-0026](#); [CAR-OTP-2015-0027](#); [CAR-OTP-2013-0061](#); [CAR-OTP-2109-0445-R01](#).

⁷¹⁶ **P-0977:** [CAR-OTP-2055-0008-R01](#) at 0013-0015, paras. 28-41 (Fr).

⁷¹⁷ **P-0546:** [CAR-OTP-2030-2023-R01](#) at 2026-2035, paras. 15-123; P-0546 **Annex 2:** [CAR-OTP-2030-2037](#).

⁷¹⁸ **P-0664:** [CAR-OTP-2104-0540-R01](#) at 0556, para. 143 (Fr); **P-0482:** [CAR-OTP-2018-0454-R01](#) at 0467-0469, para. 98 (Fr); **P-0546:** [CAR-OTP-2030-2023-R01](#) at 2028, para. 41, at 2032-2033, para. 95 (Fr).

⁷¹⁹ **P-0658:** [CAR-OTP-2122-3615-R01](#) at 3618-3624, paras. 14-61 (Fr).

⁷²⁰ **P-0482:** [CAR-OTP-2018-0454-R01](#) at 0463, paras. 61-65, at 0465, para. 76 (Fr); **P-0664:** [CAR-OTP-2104-0540-R01](#) at 0552, paras. 101-103, at 0557, para. 161 (Fr); **P-0546:** [CAR-OTP-2030-2023-R01](#) at 2028, para. 38, at 2032, para. 97; **P-0971:** [CAR-OTP-2062-0231-R01](#) at 0234-0241, paras. 18-72 (Fr); [CAR-OTP-2018-0477](#); **Commission Mixte Enquête:** [CAR-OTP-2009-3587](#) at 4279 (ln. 767); [CAR-OTP-2023-1362-R01](#) at 1364.

⁷²¹ **P-0666:** [CAR-OTP-2060-0251-R01](#) at 0253-0262, paras. 11-52 (Fr); [CAR-OTP-2060-0293](#), [CAR-OTP-2060-0294](#), [CAR-OTP-2060-0295](#), [CAR-OTP-2060-0296](#), [CAR-OTP-2060-0297](#), [CAR-OTP-2060-0298](#); **Investigation Report:** [CAR-OTP-2126-2512-R01](#); [CAR-OTP-2013-0058-R01](#).

⁷²² **P-0482:** [CAR-OTP-2018-0454-R01](#) at 0469, para. 102 (Fr); **P-0658:** [CAR-OTP-2122-3615-R01](#) at 3620, para. 30, at 3624, para. 61 (Fr).

⁷²³ **P-0487:** [CAR-OTP-2076-0061-R01](#) at 0077-0079, lns. 553-674 (Fr); [CAR-OTP-2076-0083-R01](#) at 0084-0087, lns. 33-146, at 0089-0091, lns. 181-221, 224-281 (Fr); SERVICE DU 13/11/2013: [CAR-OTP-2124-0356](#); **P-2210:** [CAR-OTP-2130-5368-R01](#) at 5376-5380, para. 34-56 (Eng); **P-0545:** [CAR-OTP-2122-3626-R01](#) at

o) Abduction and torture of 10 unknown detainees

272. P-3029 saw the Seleka bring about ten male prisoners into the CEDAD premises. The men were dressed in civilian clothes and had their hands tied behind their backs. Some of the men were tied up *arbatachar* style, with their arms tied to their legs behind their backs. The Seleka pushed the men out of the vehicle and into a cell where they were beaten with rifle butts.⁷²⁴ P-3029 recognises **SAID** as having seen him twice on the same day in the white vehicle that brought the prisoners to CEDAD.⁷²⁵ In addition, P-1007 describes **SAID** bringing in a group of prisoners, he describes as prisoners from [REDACTED].⁷²⁶
273. Overall, the evidence shows that the last detainees were released or transferred from the CEDAD compound on 8 November 2013.⁷²⁷ On 27 November 2013, CEDAD was officially dissolved by Presidential Decree.⁷²⁸ Nonetheless, in practice the institution continued to function with civil servants reporting to work until 4 December 2013 and even later.⁷²⁹ ADAM continued to work at CEDAD until 23 December 2013.⁷³⁰ On 23 December 2013, the French *Sangaris* military deployment, including members of the French Special Forces, raided the CEDAD compound and seized ammunition, rockets, military uniforms, computers and documents.⁷³¹ The raid was documented.⁷³² DJOTODIA resigned on 10 January 2014. With this resignation the Seleka left Bangui. This included ADAM and AL- BACHAR.

3634, paras. 53-55 (Fr); **P-0482**: [CAR-OTP-2018-0454-R01](#) at 0469, para. 102 (Fr); **P-0482 Annex 3**: [CAR-OTP-2018-0478](#); **LISTE DES VICTIMES SURVIVANTES DE CEDAD-2013**: [CAR-OTP-2013-0058-R01](#).

⁷²⁴ **P-3029**: [CAR-OTP-2127-9572-R01](#) at 9576, paras. 22-23 (Eng); **P-3029**: [CAR-OTP-2127-9802-R01](#) at 9807-9808, paras. 22-23 (Fr).

⁷²⁵ **P-3029**: [CAR-OTP-2127-9572-R01](#) at 9578, para. 31 and [CAR-OTP-2094-2006](#).

⁷²⁶ **P-1007**: [CAR-OTP-2130-6792-R01](#) at 6822-6824, lns. 1024-1110.

⁷²⁷ **P-0659 Annex D**: [CAR-OTP-2023-1231](#).

⁷²⁸ **CAR Decree 13.455**: [CAR-OTP-2004-1086](#) at 1124.

⁷²⁹ **P-0853**: [CAR-OTP-2062-0276-R01](#) at 0287, para. 66 (Fr); **P-0789**: [CAR-OTP-2130-0820-R01](#) at 0836, para. 105 (Fr); **P-0760**: [CAR-OTP-2130-0792-R01](#) at 0813, para. 122 (Fr).

⁷³⁰ **P-2105**: [CAR-OTP-2078-0003-R01](#) at 0027 (Fr).

⁷³¹ **P-0582**: [CAR-OTP-2067-1400-R01](#) at 1405. *See also Photos*: [CAR-OTP-2057-1070](#); [CAR-OTP-2057-1094](#); [CAR-OTP-2057-1098](#). *See also* [CAR-OTP-2057-1035](#) (indicating that computers hard-drives and other electronic items were also located in the CEDAD building).

⁷³² **Photos**: [CAR-OTP-2057-1040](#) (Cell Building, 24/12/2013); [CAR-OTP-2057-1044](#) (CEDAD Cell, 23/12/13); [CAR-OTP-2057-1051](#) (CEDAD Cell 23/12/2013); [CAR-OTP-2057-1052](#) (CEDAD Cell, 23/12/2013); [CAR-OTP-2057-1054](#) (Weapons at CEDAD, 23/12/13); [CAR-OTP-2057-1062](#) (CEDAD Sangaris Troops 23/12/13); [CAR-OTP-2057-1074](#) (CEDAD cell building 23/12/13); [CAR-OTP-2057-1061](#) (Files/Papers CEDAD 23/12/2013); [CAR-OTP-2057-1007-R01](#) at 1011-1012. *See also Report by the French Ministry of Defence*: [CAR-OTP-2107-1224-R01](#) (Eng).

3. Legal Classification of the Material Facts

a) COUNT 8: Imprisonment as a crime against humanity⁷³³

274. SAID is charged with the crime of imprisonment as a crime against humanity pursuant to article 7(1)(e) in relation to the arrest and detention of the persons set out in paragraphs 64.a-o of the DCC.⁷³⁴

i. Unlawful imprisonment

275. The evidence as provided by the detainees themselves, which is corroborated by other types of evidence including [REDACTED] witnesses,⁷³⁵ shows that at least 32 men and one woman were deprived of their liberty at the CEDAD detention centre, were removed from the protection of the law completely and subjected to inhumane detention conditions. The gravity of the conduct against the detainees at the CEDAD compound was such, that it was in violation of fundamental rules of international law.

(1) Violent abductions

276. The evidence shows that the abductions of the victims of the CEDAD described in paragraph 64 of the DCC were carried out by patrols commanded and organised by SAID consisting of armed Seleka elements⁷³⁶ who did not identify themselves to the persons

⁷³³ SAID has not been charged with committing the crime of enforced disappearance as a crime against humanity pursuant to article 7(1)(i) of the Statute. The Prosecution considers that the evidence in this case does not suffice to establish the requisite specific intent to remove a person from the law for a prolonged period of time, and thus, there is no reasonable prospect of conviction for this crime. In the case at hand, the *mens rea* requirement would have to be inferred from the perpetrators' conduct. However, the detentions lasted from 15 September to 8 November, with varying times per detainee, meaning that it is difficult to draw a clear inference from a period which overall lasted for only two months. It is noted that there is no set timeframe for what a prolonged period of time means under the Statute. In relevant case law, at minimum, the timeframes specified in relevant case law and decisions of treaty bodies range from 7 days to several months of detention (See CED, *Views provided by the Committee under article 31 of the Convention for communication no. 1/2013* ("Yrusta v. Argentina"), UN Doc. CED/C/10/D/1/2013, 12 April 2016, para. 10.4; Special Panels for Serious Crimes, Case No. 23/2003, *The Public Prosecutor v. Rusdin Maubere*, p. 23; European Court of Human Rights, *Case of El-Masri v. The Former Yugoslav Republic of Macedonia*, "Judgment," 13 December 2012, para. 240; UN Human Rights Committee, Communication No. 1782/2008, Views adopted by the Committee, CCPR/C/104/D/1782/2008, 19 June 2012, para. 7.6, 7.10; see also Lot Vermeulen, M., *Enforced Disappearance: Determining State Responsibility under the International Convention for the Protection of All Persons from Enforced Disappearance* (Intersentia: Cambridge, Antwerp, Portland, 2012), p. 173-174. The shorter the timeframe of the detention, the more difficult it is to infer the specific intent. In addition, there is no jurisprudence on the crime developed yet at the ICC. The Prosecution notes that in the Situation of Burundi, the Pre-Trial Chamber has held that "[a] period of several months or years certainly fulfils that requirement." See *Burundi* Article 15 Decision, para. 120.

⁷³⁴ In relation to the law, reference is made to paras. 144-146 above.

⁷³⁵ **P-0659**: [CAR-OTP-2023-0728-R01](#) at 0736-0740, paras. 47-67; **P-0659 Annex H**: [CAR-OTP-2023-1076-R01](#) at 1097. See also excerpts from **SRI Register**: [CAR-OTP-2124-0357](#); [CAR-OTP-2124-0358](#).

⁷³⁶ **P-0664**: [CAR-OTP-2104-0540-R01](#) at 0544, para. 24 (Fr); **P-0758**: [CAR-OTP-2127-9348-R01](#) at 9352, para. 27 (Fr); **P-0940**: [CAR-OTP-2127-9380-R01](#) at 9384-9385, paras. 19-24 (Fr); **P-0854**: [CAR-OTP-2081-0401-R01](#)

sought for arrest as belonging to law enforcement, and who were using vehicles without licence plates and which had tinted windows.⁷³⁷

277. The abductions themselves were violent in nature involving physical and psychological abuse such as death threats and beatings with weapons and other items.⁷³⁸ Personal items such as mobile phones and money were taken from the detainees by the Seleka.⁷³⁹ Some detainees were seized at gun point and forced into the vehicles.⁷⁴⁰
278. Armed Seleka came into P-0940's [REDACTED].⁷⁴¹ They beat P-0940, P-0854 and [REDACTED] with the butts of their AK-47 rifles for half an hour.⁷⁴² [REDACTED].⁷⁴³ After searching [REDACTED] and taking [REDACTED], the Seleka placed hoods over the heads of P-0940, P-0854 and [REDACTED] and took them away in a vehicle with tinted windows.⁷⁴⁴
279. P-0545 was returning from [REDACTED] when he and P-0662 were attacked and beaten [REDACTED] by armed Seleka carrying AK-47s.⁷⁴⁵ The Seleka placed P-0545 and P-

at 0404, para. 17; CAR-OTP-2127-9394-R01 at 9398, para. 17 (Fr); **P-0545**: CAR-OTP-2122-3626-R01 at 3630, paras. 16-20 (Fr); **P-0665**: CAR-OTP-2033-7960-R01 at 7963, paras. 19-21 (Fr).

⁷³⁷ **P-0663**: CAR-OTP-2122-3583-R01 at 3587, para. 19 (Fr); **P-0664**: CAR-OTP-2104-0540-R01 at 0543, paras. 18-19 (Fr); **P-0500**: CAR-OTP-2013-0557-R01 at 0567-0568, paras. 37-38 (Fr); **P-0663**: CAR-OTP-2122-3583-R01 at 3587, paras. 20-22 (Fr); **P-0758**: CAR-OTP-2023-1285-R01 at 1288, para. 18 (Fr); **P-0940**: CAR-OTP-2127-9380-R01 at 9384-9385, para. 19 (Fr); **P-0854**: CAR-OTP-2127-9394-R01 at 9397, para. 13 (Fr); **P-0545**: CAR-OTP-2122-3626-R01 at 3629-3630, paras. 14-19 (Fr); **P-0665**: CAR-OTP-2033-7960-R01 at 7963, paras. 19-21 (Fr).

⁷³⁸ **P-0545**: CAR-OTP-2122-3626-R01 at 3629-3630, paras. 14-19 (Fr); **P-0666**: CAR-OTP-2060-0251-R01 at 0253-0254, paras. 15-17, 19 (Fr); **P-0971**: CAR-OTP-2062-0231-R01 at 0235, paras. 27-28 (Fr); **P-0658**: CAR-OTP-2122-3615-R01 at 3619, paras. 23-25 (Fr); **P-0546**: CAR-OTP-2030-2023-R01 at 2026, para. 23 (Fr); **P-0663**: CAR-OTP-2122-3583-R01 at 3587, paras. 24-25 (Fr); **P-0940**: CAR-OTP-2127-9380-R01 at 9385, paras. 21-25 (Fr); **P-0854**: CAR-OTP-2127-9394-R01 at 9398-9399, paras. 17-21 (Fr); **P-0545**: CAR-OTP-2122-3626-R01 at 3630, para. 20 (Fr); **P-0665**: CAR-OTP-2033-7960-R01 at 7963, paras. 19-21 (Fr).

⁷³⁹ **P-0545**: CAR-OTP-2122-3626-R01 at 3630, para. 20 (Fr); **P-0663**: CAR-OTP-2122-3583-R01 at 3586-3587, paras. 16-20 (Fr); **P-0658**: CAR-OTP-2046-0978-R01 at 0981, para. 2 (Fr); **P-0546**: CAR-OTP-2030-2023-R01 at 2026, para. 22 (Fr); **P-0666**: CAR-OTP-2060-0251-R01 at 0254, para. 20 (Fr); **P-0758**: CAR-OTP-2127-9348-R01 at 9355, para. 47 (Fr); **P-0940**: CAR-OTP-2127-9380-R01 at 9385, para. 22; **P-0545**: CAR-OTP-2122-3626-R01 at 3629; Fr of **P-0482**: CAR-OTP-2018-0454-R01 at 0459, para. 30.

⁷⁴⁰ **P-0664**: CAR-OTP-2104-0540-R01 at 0544, para. 24 (Fr); **P-0665**: CAR-OTP-2033-7960-R01 at 7963-7964, paras. 21-22 (Fr); **P-0482**: CAR-OTP-2018-0454-R01 at 0457, paras. 16, 20 (Fr); **P-0663**: CAR-OTP-2122-3583-R01 at 3587, paras. 19-20 (Fr); **P-0500**: CAR-OTP-2013-0557-R01 at 0567, paras. 31, 34, 36 (Fr); **P-0666**: CAR-OTP-2060-0251-R01 at 0253-0254, paras. 15-16, 19 (Fr); **P-0665**: CAR-OTP-2033-7960-R01 at 7963, paras. 19-21 (Fr).

⁷⁴¹ **P-0940**: CAR-OTP-2127-9380-R01 at 9384-9385, paras. 19-24 (Fr).

⁷⁴² **P-0940**: CAR-OTP-2127-9380-R01 at 9385, paras. 21-23 (Fr); **P-0854**: CAR-OTP-2127-9394-R01 at 9398, para. 17 (Fr).

⁷⁴³ **P-0940**: CAR-OTP-2127-9380-R01 at 9385, para. 21 (Fr); **P-0854**: CAR-OTP-2127-9394-R01 at 9399, para. 22 (Fr).

⁷⁴⁴ **P-0940**: CAR-OTP-2127-9380-R01 at 9385, para. 23 (Fr); **P-0854**: CAR-OTP-2127-9394-R01 at 9398-9399, paras. 13-62 (Fr).

⁷⁴⁵ **P-0545**: CAR-OTP-2122-3626-R01 at 3630, para. 18 (Fr); **P-0662**: CAR-OTP-2130-5398-R01 at 5407, paras. 29-30.

0662 in a vehicle with tinted windows.⁷⁴⁶ P-0662 recounts that the hood placed tightly over his head by the Seleka was covered in *piment*, a strong spice, that got into his eyes and mouth and made it hard for him to breathe. Upon arrival at the CEDAD compound, P-0545 and P-0662 asked for water to wash the *piment* out of their eyes but were denied their request.⁷⁴⁷

(2) Detainees were not told where they were taken

280. The abducted persons were hooded and then driven in circles around Bangui by the Seleka arrest patrols under SAID's command so that by the time they arrived at the CEDAD compound they did not know how they had gotten there.⁷⁴⁸ P-1004 explained that he saw Seleka elements bring in prisoners with black hoods over their heads and faces and place them in the detention rooms.⁷⁴⁹

(3) Detainees were deprived of due process and independent review

281. P-0384, [REDACTED] at the relevant time, confirms that the CEDAD compound was an unofficial detention site.⁷⁵⁰ The activities there were kept secret, and judicial authorities and the public prosecutor's office were never officially informed of the arbitrary arrests and interrogations that were carried out at the CEDAD compound.⁷⁵¹

282. The detainees were not formally informed of the reasons for their arrest nor were they charged formally with a specific crime.⁷⁵² They were not given access to a lawyer, nor granted other fundamental due process rights such as a right to appeal their detention,

⁷⁴⁶ **P-0545:** [CAR-OTP-2122-3626-R01](#) at 3630, para. 19 (Fr); **P-0662:** [CAR-OTP-2130-5398-R01](#) at 5407, paras. 29-30 (Fr); **P-0665:** [CAR-OTP-2033-7960-R01](#) at 7963, paras. 20-22 (Fr).

⁷⁴⁷ **P-0662:** [CAR-OTP-2130-5398-R01](#) at 5409, para. 34 (Fr).

⁷⁴⁸ **P-0500:** [CAR-OTP-2013-0557-R01](#) at 0568, para. 45 (Fr); **P-0531:** [CAR-OTP-2122-3527-R01](#) at 3532, para. 28 (Fr); **P-0664:** [CAR-OTP-2104-0540-R01](#) at 0544, para. 24 (Fr); **P-0545:** [CAR-OTP-2122-3626-R01](#) at 3630, paras. 18-19 (Fr); **P-0665:** [CAR-OTP-2033-7960-R01](#) at 7964, para. 22 (Fr); **P-0482:** [CAR-OTP-2018-0454-R01](#) at 0458, para. 26; **P-0663:** [CAR-OTP-2122-3583-R01](#) at 3587, para. 22 (Fr); **P-0658:** [CAR-OTP-2122-3615-R01](#) at 3619, para. 25 (Fr); **P-0546:** [CAR-OTP-2030-2023-R01](#) at 2026, para. 25 (Fr); **P-0666:** [CAR-OTP-2060-0251-R01](#) at 0254, para. 19 (Fr); **P-0971:** [CAR-OTP-2062-0231-R01](#) at 0235, paras. 27-29 (Fr); **P-0758:** [CAR-OTP-2127-9348-R01](#) at 9353, paras. 29-30 (Fr); **P-0940:** [CAR-OTP-2127-9380-R01](#) at 9385, paras. 23-24 (Fr); **P-0854:** [CAR-OTP-2127-9394-R01](#) at 9399-9400, paras. 23-27 (Fr); **P-0803:** [CAR-OTP-2070-0966-R01](#) at 0971, para. 25 (Fr); **P-0792:** [CAR-OTP-2066-0888-R01](#) at 0898, para. 58 (Fr); **P-2210:** [CAR-OTP-2130-5368-R01](#) at 5376, para. 34 (Fr).

⁷⁴⁹ **P-1004:** [CAR-OTP-2130-1736-R01](#) at 1746, paras. 60-61 (Fr).

⁷⁵⁰ **P-0384:** [CAR-OTP-2106-0314-R01](#) at 0330-0331, para. 68 (Fr).

⁷⁵¹ **P-0384:** [CAR-OTP-2106-0314-R01](#) at 0330-0331, para. 68 (Fr).

⁷⁵² **P-0662:** [CAR-OTP-2130-5398-R01](#) at 5407-5408, para. 30 (Fr); **P-0658:** [CAR-OTP-2122-3615-R01](#) at 3619, para. 22 (Fr); **P-0663:** [CAR-OTP-2122-3583-R01](#) at 3593, paras. 70-73 (Fr); **P-0482:** [CAR-OTP-2018-0454-R01](#) at 0467, para. 87 (Fr).

access to an independent review of their detention nor any medical treatment.⁷⁵³ At a minimum, detainees stayed a week at the CEDAD. As summarised in paragraph 64 of the DCC, the majority of the detainees were held for several weeks without having their internment reviewed or being allowed to contact their families.

283. That their detention was to be kept secret from the start is also evidenced by the fact that none of the detainees were provided with formal document regarding their detention and — aside from a minority among those detainees taken to SRI on 8 November 2013 — never appeared before any independent and impartial authority, such as a judge or other person.⁷⁵⁴ Only as media began to report increasingly on the existence of the CEDAD compound and the secret detentions occurring there,⁷⁵⁵ did ADAM and AL-BACHAR organise the release and transfer of the detainees on 8 November 2013.⁷⁵⁶

(4) Inhumane detention conditions

284. The detained were subjected to inhumane detention conditions. In the compound, there were three small cells in a separate building facing the main villa.⁷⁵⁷ These were only approximately 4x4 meters in dimension.⁷⁵⁸ At times, there was overcrowded with possibly up to 40 prisoners in one cell.⁷⁵⁹ The cells had no lighting⁷⁶⁰, no windows and were unbearably hot.⁷⁶¹ Detainees could only sleep leaning against the wall or

⁷⁵³ **P-0482:** [CAR-OTP-2018-0454-R01](#) at 0460, para. 42 (Fr); **P-0500:** [CAR-OTP-2122-3490-R01](#) at 3506, para. 61 (Fr).

⁷⁵⁴ **P-0666:** [CAR-OTP-2060-0251-R01](#) at 0261, para. 49 (Fr); **P-0659:** [CAR-OTP-2130-0873-R01](#) at 0882-0883 (Fr), **P-0384:** [CAR-OTP-2106-0314-R01](#) at 0334-0335, paras. 84-85.

⁷⁵⁵ See **Press Release:** [CAR-OTP-2001-0191](#) at 0191-0192.

⁷⁵⁶ **P-0853:** [CAR-OTP-2062-0276-R01](#) at 0287, para. 68 (Fr). See **Investigation Report** at [CAR-OTP-2124-0316-R01](#); SERVICE DU 05 Novembre 2013, [CAR-OTP-2124-0349](#) and the following entries: [REDACTED].

⁷⁵⁷ See **Photos:** [CAR-OTP-2033-5743](#); [CAR-OTP-2033-5744](#); [CAR-OTP-2033-5750](#); [CAR-OTP-2033-5764](#); [CAR-OTP-2033-5770](#); [CAR-OTP-2033-5792](#); [CAR-OTP-2033-5795](#); [CAR-OTP-2033-5797](#); [CAR-OTP-2033-5816](#); [CAR-OTP-2033-5839](#).

⁷⁵⁸ **P-0545:** [CAR-OTP-2122-3626-R01](#) at 3631-3632, para. 30 (Fr); See **FSS Report:** [CAR-OTP-2058-0264-R01](#) at 0307-0316; [CAR-OTP-2118-3978-R01](#) at 4021-4030 (Eng); See also **Photos FSS:** [CAR-OTP-2033-5743](#); [CAR-OTP-2033-5744](#); [CAR-OTP-2033-5748](#); [CAR-OTP-2033-5750](#); [CAR-OTP-2033-5751](#); [CAR-OTP-2033-5764](#); [CAR-OTP-2033-5770](#); [CAR-OTP-2033-5773](#); [CAR-OTP-2033-5776](#); [CAR-OTP-2033-5779](#); [CAR-OTP-2033-5786](#); [CAR-OTP-2033-5792](#); [CAR-OTP-2033-5795](#); [CAR-OTP-2033-5797](#); [CAR-OTP-2033-5816](#); [CAR-OTP-2033-5839](#). See also **Photos French Military (2013):** [CAR-OTP-2057-1040](#); [CAR-OTP-2057-1044](#); [CAR-OTP-2057-1051](#); [CAR-OTP-2057-1051](#); [CAR-OTP-2057-1052](#); [CAR-OTP-2057-1074](#).

⁷⁵⁹ **P-0664:** [CAR-OTP-2104-0540-R01](#) at 0547, para. 56 (Fr); **Correspondence:** [CAR-OTP-2023-1362-R01](#) at 1366; **P-0666:** [CAR-OTP-2060-0251-R01](#) at 0256, para. 26 (Fr); **P-0663:** [CAR-OTP-2122-3583-R01](#) at 3588, para. 34 (Fr); **P-0500:** [CAR-OTP-2013-0557-R01](#) at 0571 (Fr); **P-0758:** [CAR-OTP-2127-9348-R01](#) at 9354, para. 41; **P-0854:** [CAR-OTP-2127-9394-R01](#) at 9400-9401, para. 32 (Fr).

⁷⁶⁰ **P-0664:** [CAR-OTP-2104-0540-R01](#) at 0548, para. 65 (Fr); **P-0940:** [CAR-OTP-2127-9380-R01](#) at 9386, para. 27 (Fr); **P-0545:** [CAR-OTP-2122-3626-R01](#) at 3631, para. 23 (Fr); **P-0803:** [CAR-OTP-2070-0966-R01](#) at 0971-0972, paras. 29-30 (Fr).

⁷⁶¹ **P-0664:** [CAR-OTP-2104-0540-R01](#) at 0549, para. 80 (Fr); **P-0758:** [CAR-OTP-2127-9348-R01](#) at 9354, para. 45 (Fr); **P-0854:** [CAR-OTP-2127-9394-R01](#) at 9401, para. 33 (Fr); **P-0545:** [CAR-OTP-2122-3626-R01](#) at 3631,

crouching down.⁷⁶² There were no toilet facilities so the prisoners had to relieve themselves in the cells.⁷⁶³ Some prisoners were handcuffed for days,⁷⁶⁴ including to other detainees, others even for weeks.⁷⁶⁵ No medical attention was provided, even in cases of detainees suffering medical conditions.⁷⁶⁶ The detainees were not provided sufficient food and water by the Seleka, resulting in severe malnourishment and suffering.⁷⁶⁷

ii. Awareness of the factual circumstances that established the gravity

285. **SAID** was aware of the factual circumstances that established the gravity of the conduct. Witnesses state that he was present regularly at the CEDAD compound,⁷⁶⁸ even sleeping there.⁷⁶⁹
286. The CEDAD compound was small, with the cells visible from the main villa. Civil servants stationed at the CEDAD compound confirm there were small cells on the premises and people were detained in them.⁷⁷⁰ Neighbours explain that they could hear screams, gunshots and the sound of beatings from their houses close by.⁷⁷¹ They saw

para. 29 (Fr); **P-0665**: [CAR-OTP-2033-7960-R01](#) at 7964, para. 27 (Fr); **P-0803**: [CAR-OTP-2070-0966-R01](#) at 0971-0972, para. 29 (Fr).

⁷⁶² **P-0663**: [CAR-OTP-2122-3583-R01](#) at 3589, para. 37 (Fr); **P-0666**: [CAR-OTP-2060-0251-R01](#) at 0256, para. 26 (Fr).

⁷⁶³ **P-0664**: [CAR-OTP-2104-0540-R01](#) at 0549, para. 77 (Fr); **P-0664**: [CAR-OTP-2023-1362-R01](#) at 1366 (Fr); **P-0666**: [CAR-OTP-2060-0251-R01](#) at 0256, para. 26 (Fr); **P-0663**: [CAR-OTP-2122-3583-R01](#) at 3589, para. 38 (Fr); **P-0758**: [CAR-OTP-2127-9348-R01](#) at 9354, para. 45 (Fr); **P-0854**: [CAR-OTP-2127-9394-R01](#) at 9403, para. 43 (Fr); **P-0545**: [CAR-OTP-2122-3626-R01](#) at 3631, para. 30 (Fr); **P-0662**: [CAR-OTP-2130-5398-R01](#) at 5410-5411, para. 39 (Fr); **P-0482**: [CAR-OTP-2018-0454-R01](#) at 0459, para. 31 (Fr).

⁷⁶⁴ **P-0666**: [CAR-OTP-2060-0251-R01](#) at 0256, para. 26 (Fr); **P-0545**: [CAR-OTP-2122-3626-R01](#) at 3630, para. 22 (Fr).

⁷⁶⁵ **P-0663**: [CAR-OTP-2122-3583-R01](#) at 3589, para. 36 (Fr); **P-0664**: [CAR-OTP-2104-0540-R01](#) at 0547, paras. 53-54 (Fr); **P-0803**: [CAR-OTP-2070-0966-R01](#) at 0974, para. 39 (Fr).

⁷⁶⁶ **P-0664**: [CAR-OTP-2104-0540-R01](#) at 0547, para. 55 (Fr); **Correspondence**: [CAR-OTP-2023-1362-R01](#) at 1366; **P-0500**: [CAR-OTP-2122-3490-R01](#) at 3504, paras. 50-52 (Fr); **P-0792**: [CAR-OTP-2130-0861-R01](#) at 0870, para. 41 (Fr); **P-0758**: [CAR-OTP-2127-9348-R01](#) at 9355, para. 49 (Fr); **P-0940**: [CAR-OTP-2127-9380-R01](#) at 9390-9391, paras. 50, 57 (Fr); **P-0665**: [CAR-OTP-2033-7960-R01](#) at 7965, para. 32 (Fr).

⁷⁶⁷ **P-0663**: [CAR-OTP-2122-3583-R01](#) at 3589, para. 40 (Fr); **P-0792**: [CAR-OTP-2066-0888-R01](#) at 0897, para. 52 (Fr); **P-0758**: [CAR-OTP-2127-9348-R01](#) at 9355, para. 48 (Fr); **P-0940**: [CAR-OTP-2127-9380-R01](#) at 9390, para. 48 (Fr); **P-0854**: [CAR-OTP-2127-9394-R01](#) at 9403-9404, paras. 43, 50 (Fr); **P-0662**: [CAR-OTP-2130-5398-R01](#) at 5409, para. 36 (Fr); **P-0665**: [CAR-OTP-2033-7960-R01](#) at 7965 (Fr); **P-0803**: [CAR-OTP-2070-0966-R01](#) at 0972 (Fr); **P-0482**: [CAR-OTP-2018-0454-R01](#) at 0460 (Fr).

⁷⁶⁸ **P-2105**: [CAR-OTP-2078-0003-R01](#) at 0015-0016, paras. 72-77 (Fr); **P-1004**: [CAR-OTP-2043-0536-R01](#) at 0544, para. 56 (Eng); **P-1004**: [CAR-OTP-2130-1736-R01](#) at 1745, para. 56 (Fr).

⁷⁶⁹ **P-0853**: [CAR-OTP-2062-0276-R01](#), p. 0281-0282, paras. 29-31 (Fr); **P-0853**: [CAR-OTP-2125-0886-R01](#) at 0889-0890, para. 21.

⁷⁷⁰ **P-3031 (Screening)**: [CAR-OTP-2125-0790-R01](#) at 0793; **P-0789**: [CAR-OTP-2130-0820-R01](#) at 0832, para. 78 (Fr); **P-0789**: [CAR-OTP-2023-0621-R01](#) at 0632, para. 78 (Eng).

⁷⁷¹ **P-0962**: [CAR-OTP-2034-0411-R01](#) at 0415-0418, paras. 35-61 (Eng); **P-0963**: [CAR-OTP-2127-9652-R01](#) at 9656-9657, paras. 20-35.

blood flowing from underneath the CEDAD entrance gate and at the back of a Seleka vehicle.⁷⁷² P-3029 saw blood and items of clothing on the floor inside the CEDAD premises.⁷⁷³ As outlined below, there is evidence that SAID brought [REDACTED].⁷⁷⁴ This was in September 2013 and P-0665 was detained with several other men.⁷⁷⁵

b) COUNT 9 and 10: Torture as a crime against humanity and as a war crime

287. SAID is charged with torture as a crime against humanity pursuant to article 7(1)(f) and torture as a war crime pursuant to article 8(2)(c)(1)-4 for the incidents as summarised in paragraph 64 of the DCC.

i. Severe physical or mental pain or suffering

288. At the CEDAD compound, during the time relevant to the charges, the Seleka perpetrators inflicted severe physical and mental pain and suffering on the detainees.

289. Not only during their arrests but also during their detention, detainees were beaten, sometimes while hooded,⁷⁷⁶ until they passed out,⁷⁷⁷ and handcuffed,⁷⁷⁸ including with whips,⁷⁷⁹ planks and kicked,⁷⁸⁰ and tied *arbatachar*.⁷⁸¹ [REDACTED].⁷⁸²

290. One detainee was burned with a hot iron.⁷⁸³ Another detainee was cut with a knife on his arm during interrogation and told that he would be better off talking than suffering.⁷⁸⁴

⁷⁷² P-0962: CAR-OTP-2034-0411-R01 at 0418, paras. 55-58 (Eng); P-0963: CAR-OTP-2127-9652-R01 at 9659, para. 44 (Fr).

⁷⁷³ P-3029: CAR-OTP-2127-9802-R01 at 9810, para. 32 (Fr).

⁷⁷⁴ See *infra*, paras. 331-333.

⁷⁷⁵ P-0665: CAR-OTP-2033-7960-R01 at 7965, paras. 30-31, 33 (Fr).

⁷⁷⁶ P-2105: CAR-OTP-2078-0003-R01 at 0023-0024, paras. 122-124 (Fr); P-0792: CAR-OTP-2066-0888-R01 at 0894, para. 38 (Fr); P-0758: CAR-OTP-2127-9348-R01 at 9357-9358, paras. 70-75 (Fr); P-0940: CAR-OTP-2127-9380-R01 at 9386-9387, para. 31 (Fr); P-0854: CAR-OTP-2127-9394-R01 at 9400, paras. 27-29 (Fr); P-0545: CAR-OTP-2122-3626-R01 at 3630, para. 19-22 (Fr); CAR-OTP-2102-0293-R01 at 0301, para. 45 (Fr); P-0803: CAR-OTP-2070-0966-R01 at 0973 para. 36-37 (Fr).

⁷⁷⁷ P-0940: CAR-OTP-2081-0384-R01 at 0389, para. 31 (Eng).

⁷⁷⁸ P-0666: CAR-OTP-2060-0251-R01 at 0255, para. 23 (Fr).

⁷⁷⁹ P-0663: CAR-OTP-2122-3583-R01 at 3589, para. 41 (Fr); P-0940: CAR-OTP-2127-9380-R01 at 9386-9387, para. 31 (Fr); P-0662: CAR-OTP-2099-0336-R01 at 0348; P-0803: CAR-OTP-2130-5398-R01 at 5411-5412, para. 43 (Fr); P-0482: CAR-OTP-2018-0454-R01 at 0460, para. 41 (Fr).

⁷⁸⁰ P-0664: CAR-OTP-2104-0540-R01 at 0544-0545, paras. 30, 35 (Fr); P-0665: CAR-OTP-2048-0435-R01 at 0440, para. 28 (Eng); P-0665: CAR-OTP-2033-7960-R01 at 7964, para. 28 (Fr); P-0658: CAR-OTP-2046-0978-R01 at 0983, para. 39-40; P-0658: CAR-OTP-2046-0978-R01 at 3621, para. 39-40; P-0758: CAR-OTP-2023-1285-R01 at 1294-1295, para. 82-85 (Eng); CAR-OTP-2127-9348-R01 at 9358-9359, paras. 82-85 (Fr).

⁷⁸¹ P-3029: CAR-OTP-2127-9572-R01 at 9576, paras. 21-23.

⁷⁸² P-0797: CAR-OTP-2023-0696-R01 at 0702, para. 28 (Eng); P-0797: CAR-OTP-2130-0861-R01 at 0868, para. 28 (Fr).

⁷⁸³ P-0666: CAR-OTP-2064-0321-R01 at 0326, para. 23 (Fr).

⁷⁸⁴ P-0665: CAR-OTP-2033-7960-R01 at 7964, para. 28 (Fr).

The abuse was so severe that some detainees lost consciousness⁷⁸⁵ or asked to be killed.⁷⁸⁶

291. Detainees were told or otherwise led to believe they would be killed,⁷⁸⁷ and subjected to conditions that incited fear for their safety. For example, detainees were frequently interrogated while hooded.⁷⁸⁸ One detainee was left standing hooded in the sun for seven hours after the Seleka at the CEDAD poked him with rifles and asked if he had prayed.⁷⁸⁹ Detainees were also beaten at night.⁷⁹⁰
292. When they arrived at the CEDAD premises, P-0545 and P-0662 were taken out of the truck, beaten with rifle butts and stripped to their underwear before being placed in a small room.⁷⁹¹ P-0545 states that they were beaten for the first 48 hours that they were held in the small room.⁷⁹²
293. According to P-0853, detainees were beaten with sticks as part of interrogations.⁷⁹³ P-0853 states that ADAM interrogated a man from [REDACTED] in this fashion and ordered the elements to beat the man until [REDACTED].
294. From a hole in the wall of the CEDAD compound, P-0962 and P-0963 saw men with their hands bound and hoods over their heads being beaten severely by the Seleka.⁷⁹⁴

⁷⁸⁵ **P-0664:** CAR-OTP-2104-0540-R01 at 0547, para. 52 (Fr); **P-0500:** CAR-OTP-2013-0557-R01 at 0569, para. 51 (Fr); **P-0666:** CAR-OTP-2064-0321-R01 at 0326, para. 23 (Fr); **P-0758:** CAR-OTP-2023-1285-R01 at 1294-1295, para. 80-85 (Statement 1); CAR-OTP-2127-9348-R01 at 9358-9359, paras. 80-85 (Fr).

⁷⁸⁶ **P-0482:** CAR-OTP-2018-0454-R01 at 0460, para. 39 (Fr).

⁷⁸⁷ **P-0482:** CAR-OTP-2018-0454-R01 at 0459, 0461, paras. 28, 47-48 (Fr). **P-0663:** CAR-OTP-2122-3583-R01 at 3590-3591, paras. 49-50; **P-0500:** CAR-OTP-2013-0557-R01 at 0569-0570, para. 54 (Fr); **P-0664:** CAR-OTP-2104-0540-R01 at 0544, para. 30 (Fr); **P-0531:** CAR-OTP-2122-3527-R01 at 3535, para. 43 (Fr); **P-0666:** CAR-OTP-2064-0321-R01 at 0330, para. 42 (Fr); **P-0971:** CAR-OTP-2062-0231-R01 at 0237, 0240, paras. 43, 67 (Fr).

⁷⁸⁸ **P-2105:** CAR-OTP-2078-0003-R01 at 0023-0024, paras. 122-124 (Fr); **P-0545:** CAR-OTP-2122-3626-R01 at 3630, paras. 19-22 (Fr); **P-0665:** CAR-OTP-2033-7960-R01 at 7965, para. 33 (Fr); **P-0482:** CAR-OTP-2029-0049-R01 at 0055, para. 34; **P-0546:** CAR-OTP-2048-0458-R01 at 0463, 0465, paras. 33, 62 (Fr); **P-0666:** CAR-OTP-2060-0251-R01 at 0255, 0256-0257, 0259 paras. 23, 29, 38-39 (Fr); **P-0971:** CAR-OTP-2062-0231-R01 at 0237, paras. 41-42 (Fr); **P-0500:** CAR-OTP-2122-3490-R01 at 3505, para. 54 (Fr).

⁷⁸⁹ **P-0666:** CAR-OTP-2064-0321-R01 at 0327, para. 29 (Fr).

⁷⁹⁰ **P-0658:** CAR-OTP-2122-3615-R01 at 3621, para. 39 (Fr); **P-0500:** CAR-OTP-2013-0557-R01 at 0569-0570, paras. 54-55 (Fr); **P-0758:** CAR-OTP-2023-1285-R01 at 1294-1295, paras. 82-85; **P-0758:** CAR-OTP-2127-9348-R01 at 9358-9359, paras. 82-85 (Fr).

⁷⁹¹ **P-0545:** CAR-OTP-2122-3626-R01 at 3630, para. 21 (Fr).

⁷⁹² **P-0545:** CAR-OTP-2122-3626-R01 at 3631, para. 25 (Fr).

⁷⁹³ **P-0853:** CAR-OTP-2062-0276-R01 at 0285-0286, paras. 54-58 (Fr).

⁷⁹⁴ **P-0962:** CAR-OTP-2130-5748-R01 at 5754-5755 (Fr); **P-0963:** CAR-OTP-2127-9652-R01 at 9656-9658, paras. 20-35 (Fr).

ii. Custody or under the control of the CEDAD Seleka

295. All persons receiving such treatment were in the custody or under the control of the Seleka at CEDAD at the time as they were locked in one of the three cells on the CEDAD compound or interrogated in the main villa. None of them were allowed to leave the compound during their detention.

iii. The treatment was not inherent in or incidental to lawful sanctions

296. As outlined above, none of the detainees at the CEDAD were formally charged or afforded an independent review.

iv. Specific purpose of the torture

297. P-0853 states that the detainees brought into the CEDAD were perceived to be Anti-Balaka members by the Seleka who conducted the arrests.⁷⁹⁵ If the detainees did not confess, they were tortured.

298. During the beatings, detainees were interrogated, accused of planning a *coup* and asked to give up names of co-conspirators.⁷⁹⁶ Two weeks into their detention, P-0545 and P-0662 were taken out of the cell into a room in the building for interrogation. The Seleka accused P-0662 of being a [REDACTED], took him aside from P-0545, and handcuffed and whipped him across the back with a whip made of a [REDACTED].⁷⁹⁷

299. During P-0758's interrogation, the Seleka accused him of [REDACTED] in order to overthrow DJOTODIA [REDACTED]. Even after he confirmed that [REDACTED], P-0758 was beaten by ADAM and other CEDAD-Seleka.⁷⁹⁸ They beat his back with sticks and hit him in the abdomen with a wooden plank and the butt of an AK-47 rifle. P-0758 cried and screamed because of the pain.⁷⁹⁹ [REDACTED]. The Seleka soldiers each proceeded to beat P-0758 with wooden planks that were about a meter and a half long each. They beat P-0758 for 20 minutes until he passed out. His body was swollen and had injuries everywhere. [REDACTED].⁸⁰⁰

⁷⁹⁵ **P-0853**: CAR-OTP-2062-0276-R01 at 0285-0286, paras. 54-58 (Fr).

⁷⁹⁶ **P-0500**: CAR-OTP-2013-0557-R01 at 0570, para. 56 (Eng); **P-0500**: CAR-OTP-2122-3490-R01 at 3506, para. 56 (Fr); **P-0758**: CAR-OTP-2127-9348-R01 at 9357, paras. 71-73 (Fr); **P-0665**: CAR-OTP-2033-7960-R01 at 7965, para. 30 (Fr).

⁷⁹⁷ **P-0662**: CAR-OTP-2099-0336-R01 at 0348, para. 43 (Eng).

⁷⁹⁸ **P-0758**: CAR-OTP-2127-9348-R01 at 9357-9358, paras. 68-75 (Fr).

⁷⁹⁹ **P-0758**: CAR-OTP-2127-9348-R01 at 9357-9358, para. 75 (Fr).

⁸⁰⁰ **P-0758**: CAR-OTP-2127-9348-R01 at 9358-9359, paras. 82-88 (Fr).

300. The Seleka made P-0940, P-0854 and [REDACTED] lie down on the ground and whipped them until they passed out from the beating.⁸⁰¹ As the Seleka beat P-0940 they told him that the Seleka had come back to kill him because he was [REDACTED].⁸⁰² P-0940, P-0854 and [REDACTED] were beaten [REDACTED] times a day for the first [REDACTED] days they were at the CEDAD compound.⁸⁰³ P-0854 states that the Seleka guards [REDACTED].⁸⁰⁴ The Seleka also whipped them [REDACTED] times on the day of their release.⁸⁰⁵
301. P-0482 was hooded when the Seleka first brought him into the main house at the CEDAD compound. He heard someone say “Bring the *chicottes* [whips]” as he was stripped down to his trousers and made to lie on his belly. The Seleka then hit P-0482 for 20 minutes, threatening to kill him if he took the hood off his head.⁸⁰⁶ During an interrogation session, P-0482 was unable to provide the Seleka with information [REDACTED]. As punishment for not providing them the information, the Seleka kept P-0482 in the cell for [REDACTED] days.⁸⁰⁷
302. P-0803 recalls that detainees were taken out of the cell, interrogated and tortured almost on a daily basis. P-0803 would hear detainees that were taken out of the cell for interrogation screaming and crying. Detainees who were tortured told him that they were flogged by the Seleka until they confessed to things they had not actually done.⁸⁰⁸

c) COUNT 11: Cruel treatment as a war crime

303. **SAID** is charged with the war crime of cruel treatment regarding the dire detention conditions that detainees were subjected to at the CEDAD compound as well as the systematic physical mistreatment of detainees there at the hands of CEDAD-Seleka under **SAID**'s command.
304. The specific elements of this crime, which need to be fulfilled, are (i) the perpetrator inflicted severe physical or mental pain or suffering upon one or more persons; (ii)

⁸⁰¹ **P-0940**: CAR-OTP-2127-9380-R01 at 9386-9387, para. 31 (Fr).

⁸⁰² **P-0940**: CAR-OTP-2127-9380-R01 at 9386-9387, para. 31 (Fr).

⁸⁰³ **P-0940**: CAR-OTP-2127-9380-R01 at 9387, para. 33 (Fr).

⁸⁰⁴ **P-0854**: CAR-OTP-2127-9394-R01 at 9402, para. 39 (Fr).

⁸⁰⁵ **P-0940**: CAR-OTP-2127-9380-R01 at 9390, para. 51 (Fr).

⁸⁰⁶ **P-0482**: CAR-OTP-2018-0454-R01 at 0459, para. 28 (Fr).

⁸⁰⁷ **P-0482**: CAR-OTP-2018-0454-R01 at 0461, para. 51 (Fr).

⁸⁰⁸ **P-0803**: CAR-OTP-2070-0966-R01 at 0973, para. 37 (Fr).

such person or persons was either *hors de combat*, or were civilians, medical personnel, or religious personnel taking no active part in hostilities.

d) COUNT 12: Crime of 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))

305. 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.⁸⁰⁹

i. Refusal to acknowledge the deprivation of liberty and the suffering of the detainees' relatives⁸¹⁰

306. The abductions and detentions by the arrest patrols under SAID's command were followed or accompanied by a refusal to acknowledge the deprivation of freedom of the detainees and to give information on the fate or whereabouts of these persons. These acts were of a character similar to those referred to in article 7(1)(i)(2)(a) in the crime of enforced disappearance. The victims of this charge are the detainees as well as their relatives who were not informed of their whereabouts.

307. At the CEDAD compound, care was taken to attract as little public attention as possible to the location and the detention of persons there: the name of the location was not mentioned publicly by the Seleka.⁸¹¹ The Seleka elements were not allowed to wear their military uniforms when coming and going so as not to give away its location.⁸¹² When prisoners were brought in they were blindfolded or hooded so they would not know where the compound was situated.⁸¹³ The same procedure was adopted when prisoners were released.⁸¹⁴ When on 8 November 2013, the last detainees were transferred to the prison known as SRI by AL-BACHAR they were

⁸⁰⁹ See also *Prosecutor v. Katanga & Ngudjolo* Confirmation Decision, para. 447.

⁸¹⁰ As set out above at fn. 736 the crime of enforced disappearance has not been charged. However, the specific harm caused to these victims should and can be captured by the legal characterisation as other inhumane acts.

⁸¹¹ **P-2105**: [CAR-OTP-2084-0191-R01](#) at 0214.

⁸¹² **P-2105**: [CAR-OTP-2084-0191-R01](#) at 0211.

⁸¹³ **P-0500**: [CAR-OTP-2013-0557-R01](#) at 0568; **P-0666**: [CAR-OTP-2064-0321-R01](#) at 0325.

⁸¹⁴ **P-0663**: [CAR-OTP-2023-0537-R01](#) at 0545; **P-0854**: [CAR-OTP-2081-0401-R01](#) at 0410, paras. 52-54; [CAR-OTP-2127-9394-R01](#) at 9404-9405, paras. 52-54 (Fr); **P-0803**: [CAR-OTP-2070-0966-R01](#) at 0974.

warned not to speak about their detention and to be careful, since the Seleka might pick them up again.⁸¹⁵ Those whose actions threatened to expose the CEDAD were severely punished.⁸¹⁶

308. During their detention at the CEDAD compound, detainees could not contact or receive visits from family members and nor were families informed of their detention and where they were held.⁸¹⁷ Witnesses explain that guards kept two registers for prisoners. When family members would come looking for a prisoner, the guards would show them the false register so that no one could confirm that the prisoners were there.⁸¹⁸
309. It was part of the Seleka policy at the CEDAD compound to keep the detainees isolated from the outside world and their families.⁸¹⁹ None of the detainees were allowed to contact their family members, according to P-0482,⁸²⁰ P-0662,⁸²¹ P-0971⁸²², P-0665⁸²³ and P-0663.⁸²⁴ In the cases of P-0482,⁸²⁵ P-0662,⁸²⁶ P-0971,⁸²⁷ P-0665,⁸²⁸ P-0658,⁸²⁹ and P-0663,⁸³⁰ their relatives all went looking for them, asking the authorities at various locations in Bangui such as police stations and hospitals about what happened to their loved ones.⁸³¹ The families presumed the worst and believed them to have been killed, causing them great anguish.

⁸¹⁵ **P-0663**: [CAR-OTP-2023-0537-R01](#) at 0545.

⁸¹⁶ **P-0797**: [CAR-OTP-2023-0696-R01](#) at 0701-0703, paras. 22-28, 34, 38.

⁸¹⁷ **P-0758**: [CAR-OTP-2127-9348-R01](#) at 9355, paras. 50-51 (Fr); **P-0665**: [CAR-OTP-2033-7960-R01](#) at 7965, paras. 34-35; **P-0482**: [CAR-OTP-2029-0049-R01](#) at 0057, paras. 52-53; **P-0662**: [CAR-OTP-2099-0336-R01](#) at 0352, para. 62; **P-0971**: [CAR-OTP-2065-0195-R01](#) at 0204, para. 55; **P-0797**: [CAR-OTP-2023-0696-R01](#) at 0700, paras. 14-15.

⁸¹⁸ **P-0663**: [CAR-OTP-2023-0537-R01](#) at 0544; **P-0500**: [CAR-OTP-2013-0557-R01](#) at 0574, para. 84.

⁸¹⁹ *Id.*

⁸²⁰ **P-0482**: [CAR-OTP-2029-0049-R01](#) at 0057, paras. 52-53.

⁸²¹ **P-0662**: [CAR-OTP-2099-0336-R01](#) at 0352, para. 62.

⁸²² **P-0971**: [CAR-OTP-2065-0195-R01](#) at 0204, para. 55.

⁸²³ **P-0665**: [CAR-OTP-2048-0435-R01](#) at 0441, paras. 34-35.

⁸²⁴ **P-0663**: [CAR-OTP-2023-0537-R01](#) at 0543, paras. 47-48. *See also* **P-0545**: [CAR-OTP-2047-0003-R01](#) at 0007, para. 29.

⁸²⁵ **P-0482**: [CAR-OTP-2029-0049-R01](#) at 0057, paras. 52-53.

⁸²⁶ **P-0662**: [CAR-OTP-2099-0336-R01](#) at 0352, para. 62.

⁸²⁷ **P-0971**: [CAR-OTP-2062-0231-R01](#) at 0239, para. 55; **P-0500**: [CAR-OTP-2122-3490-R01](#) at 3497, 3509-3510, para. 84.

⁸²⁸ **P-0665**: [CAR-OTP-2048-0435-R01](#) at 0441, paras. 34-35.

⁸²⁹ **P-0658**: [CAR-OTP-2046-0978-R01](#) at 0984, paras. 52-54, 58.

⁸³⁰ **P-0663**: [CAR-OTP-2023-0537-R01](#) at 0543, paras. 47-48; **P-0797**: [CAR-OTP-2023-0696-R01](#) at 0700, paras. 14-15.

⁸³¹ *See also* **P-1278** (screening): [CAR-OTP-2130-5703-R01](#); **P-3054** (screening): [CAR-OTP-2130-5711-R01](#); **P-3055** (screening): [CAR-OTP-2130-5685-R01](#).

310. As the site was meant to remain secluded, it was established at a residential compound behind Air France where no one would assume a prison facility was located. In general, family members were not aware of this detention site's existence as a formal prison facility like the OCRB, SRI or Ngaragba. They were forced to go looking for their relatives at known detention sites, hospitals, the *morgues* or to make appeals on *Radio Ndeke Luka* as they were not informed of the whereabouts of the prisoners.⁸³² Journalists who reported about or enquired about the CEDAD compound were severely threatened by ADAM.⁸³³
311. In cases where relatives lodged complaints directly with high-ranking members of government, they were also not informed of their relative's whereabouts. [REDACTED].⁸³⁴ He was promised assistance but only found the compound by chance. Once he arrived there, he was severely mistreated.⁸³⁵ [REDACTED].⁸³⁶ [REDACTED].⁸³⁷ [REDACTED].⁸³⁸

ii. Inhumane conditions of detention

312. The conditions of detention at the CEDAD compound as described above at paragraph 287 were so inhumane as to rise to the level of imprisonment and torture as stipulated in article 7(1)(e) and (f).

e) COUNT 13: Outrages upon personal dignity as a war crime

313. The mistreatment of the detainees including their subjection to inhumane detention conditions also fulfils the elements of the war crimes of outrages upon personal dignity pursuant to article 8(2)(c)(ii) of the Statute.⁸³⁹ Next to the extreme pain caused, the torture method of tying someone *arbatachar* puts the victim in a bodily

⁸³² **P-0663**: [CAR-OTP-2023-0537-R01](#) at 0542, 0545; **P-0760**: [CAR-OTP-2023-0567-R01](#) at 0581; **P-0482**: [CAR-OTP-2029-0049-R01](#) at 0062, para. 85; **P-0797**: [CAR-OTP-2023-0696-R01](#) at 0700, para. 17; **P-0666**: [CAR-OTP-2064-0321-R01](#) at 0331, parad. 47, 51-52; **P-0546**: [CAR-OTP-2030-2023-R01](#) at 2034, para. 115.

⁸³³ See [CAR-OTP-2033-7970](#); [CAR-OTP-2001-6583](#); **P-1814** Annex: [CAR-OTP-2059-0300](#) at 0300, 0306; **P-1814**: [CAR-OTP-2107-0090-R01](#) at 0095, para. 19; [CAR-OTP-2045-0392-R01](#); **P-0993** (screening): [CAR-OTP-2089-1148-R01](#).

⁸³⁴ **P-0663**: [CAR-OTP-2023-0537-R01](#) at 0544, para. 55.

⁸³⁵ See *supra*, para. 265.

⁸³⁶ **P-0658**: [CAR-OTP-2046-0978-R01](#) at 0985 paras. 55-57; **P-0971**: [CAR-OTP-2065-0195-R01](#) at 0204, paras. 57-58. **P-0797**: [CAR-OTP-2023-0696-R01](#) at 0701-0702, paras. 26-29.

⁸³⁷ **P-0664**: [CAR-OTP-2023-1339-R01](#) at 1350, paras. 108-111 (Eng); [CAR-OTP-2104-0540-R01](#) at 0552-0553, paras. 108-111 (Fr); **P-0971**: [CAR-OTP-2065-0195-R01](#) at 0204, paras. 61-62.

⁸³⁸ **P-0666**: [CAR-OTP-2060-0251-R01](#) at 0261, para. 50 (Fr); [CAR-OTP-2064-0321-R01](#) at 0331-0332, para. 50 (Eng).

⁸³⁹ See *Katanga & Ngudjolo* Confirmation Decision, para. 367, 369.

position designed to humiliate and degrade. In addition, the detention conditions, especially herding prisoners into crowded cells and depriving them of adequate food, water and medical attention also severely violates the detainee's dignity.⁸⁴⁰ The detainees were all at minimum *hors de combat* at the time of their mistreatment.

f) COUNT 14: Persecution⁸⁴¹

314. The Seleka at the CEDAD compound, of which **SAID** was a member, severely deprived, contrary to international law, the detainees of fundamental rights. The detainees were deprived of the rights to be free from bodily harm, including the right to life, bodily integrity, private property, freedom of movement, and not to be subjected to cruel, inhuman or degrading treatment.
315. The detainees were targeted by reason of their identity of a group or collectivity. Such targeting was based on political, ethnic, religious, and/or gender grounds. The persons detained were predominantly male Central African Christians⁸⁴² from either the Gbaya, Banda, or the Mandja ethnicity⁸⁴³, which the Seleka conducting the arrests and detentions knew. Among them were a member of the FACA, former Presidential Guards, a police officer, two customs officials, a tailor, a priest, vendors, business men, a bank employee, and a social worker.
316. The charged crimes as summarised in the DCC at paragraphs 64.a – o demonstrate a persecutory pattern of conduct from which the discriminatory intent can be reasonably inferred.⁸⁴⁴ During interrogations these detainees were asked about BOZIZE's activities or the activities of his political supporters.⁸⁴⁵ Many were

⁸⁴⁰ Other detainees had to pour urine over P-0940 so that he would regain consciousness after a beating. See **P-0940**: CAR-OTP-2081-0384-R01 at 0389, para. 31.

⁸⁴¹ See *supra*, para. 186.

⁸⁴² **P-0663**: CAR-OTP-2023-0537-R01; **P-0758**: CAR-OTP-2127-9348-R01 at 9354, para. 43 (Fr); **P-0545**: CAR-OTP-2047-0003-R01 at 0008, para. 33.

⁸⁴³ See DCC, paras. 33.a, 33.d, 33.f, 33.g, 33.j.

⁸⁴⁴ See also *supra*, paras. 71-74, 78-79.

⁸⁴⁵ **P-0663**: CAR-OTP-2023-0537-R01 at 0540, para. 23; **P-0792**: CAR-OTP-2066-0888-R01 at 0891-0892, paras. 22-23.

accused of supporting BOZIZE financially or with weapons.⁸⁴⁶ Others were accused of supporting the Anti-Balaka.⁸⁴⁷

317. The specific discriminatory intent is also evidenced by statements made by Seleka towards CEDAD-detainees during their detention, including during their interrogations. For example, during P-0482's initial interrogation, Seleka elements demanded to know [REDACTED].⁸⁴⁸ P-0482 was mistreated, interrogated and accused several times of [REDACTED].⁸⁴⁹ During P-0940's interrogation, the Seleka elements told him that they had come back to kill him because he was [REDACTED].⁸⁵⁰ Following his release, P-0665 was [REDACTED]. P-0665 recalls [REDACTED].⁸⁵¹

E. Individual criminal responsibility for crimes at the CEDAD compound

1. Article 25(3)(c): Aiding, abetting or otherwise assisting

318. Under article 25(3)(c), accessory liability can be established if a person for the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission.⁸⁵²

a) Principal perpetrators

319. On the basis of the evidence, the principal co-perpetrators at the CEDAD compound were ADAM and AL-BACHAR, who oversaw all operations and inner workings there, such as giving orders to arrest and detain. Every single detention can be attributed to these two as it can be shown that they remained in charge of the detention site throughout the relevant period.

⁸⁴⁶ **P-0792**: [CAR-OTP-2066-0888-R01](#) at 0897, para. 52; **P-0758**: [CAR-OTP-2127-9348-R01](#) at 9357, paras. 70-73 (Fr); **P-0664**: [CAR-OTP-2023-1339-R01](#) at 1344, para. 42; **P-0758**: [CAR-OTP-2127-9348-R01](#) at 9357, paras. 70-73 (Fr); **P-0940**: [CAR-OTP-2127-9380-R01](#) at 9389, para. 46; **P-0854**: [CAR-OTP-2127-9394-R01](#) at 9400, para. 30 (Fr); **P-0545**: [CAR-OTP-2047-0003-R01](#) at 0007, para. 31; **P-0662**: [CAR-OTP-2099-0336-R01](#) at 0339, para. 17; **P-0482**: [CAR-OTP-2018-0454-R01](#) at 0460, para. 37; **P-0977**: [CAR-OTP-2055-0008-R01](#) at 0013, paras. 30-31 (Eng).

⁸⁴⁷ **P-0663**: [CAR-OTP-2023-0537-R01](#) at 0541, para. 29; **P-0546**: [CAR-OTP-2030-2023-R01](#) at 2027, paras. 26-30; **P-0971**: [CAR-OTP-2062-0231-R01](#) at 0235, para. 28; **P-0666**: [CAR-OTP-2060-0251-R01](#) at 0254-0255, para. 21.

⁸⁴⁸ **P-0482**: [CAR-OTP-2018-0454-R01](#) at 0459, para. 34.

⁸⁴⁹ **P-0482**: [CAR-OTP-2018-0454-R01](#) at 0460, paras. 36-37.

⁸⁵⁰ **P-0940**: [CAR-OTP-2127-9380-R01](#) at 9386-9387, para. 31.

⁸⁵¹ **P-0665**: [CAR-OTP-2033-7960-R01](#) at 7966, para. 40.

⁸⁵² *Bemba et al.* AJ, para. 1328-1329; *Bemba et al.* TJ, para. 84.

b) Aiding, abetting or otherwise assisting

320. Article 25(3)(c) only requires that the assistance in the commission of the crime or crimes be provided for the purposes of facilitating such commission without indicating whether the conduct must have had an effect on the commission of the offence.⁸⁵³ If it can be shown that the assistance facilitated or furthered i.e. had an effect on the crimes then the elements are met. SAID's contributions to the crimes fulfil these criteria as he made the following contributions to the crimes:

i. Recruiting Seleka elements to staff CEDAD, including many who were familiar with the criminal practices employed already at the OCRB

321. The evidence shows that SAID began working at CEDAD for ADAM when ADAM lost his position as Minister and was appointed head of CEDAD by DJOTODIA.⁸⁵⁴ According to P-2105 and P-1004,⁸⁵⁵ SAID transferred together with some of his former elements from the OCRB to the CEDAD, whom he recruited for ADAM from Camp BEAL.⁸⁵⁶ At CEDAD, SAID reported directly to ADAM.⁸⁵⁷

322. P-2105 states⁸⁵⁸ that SAID and other Seleka colonels were already selecting some of their soldiers at the OCRB with a view to appointing them to CEDAD when ADAM was appointed to lead CEDAD. In total, about a hundred elements were deployed to the CEDAD compound. The modus operandi of the CEDAD compound was in every respect similar to that followed by ADAM at the OCRB, which is described in detail earlier.⁸⁵⁹

ii. Acting as "operations commander"

323. SAID was the "operations commander" at the CEDAD compound which means he was in charge of the Seleka colonels and elements who were part of the arrest patrols and the security shifts at the CEDAD location.⁸⁶⁰ P-2105 explains that SAID had a

⁸⁵³ *Bemba et al.* AJ, para. 1327.

⁸⁵⁴ **P-2105**: CAR-OTP-2084-0191-R01 at 0211, paras. 116-117.

⁸⁵⁵ **P-1004**: CAR-OTP-2043-0536-R01 at 0540, 0543, paras. 30, 32, 53.

⁸⁵⁶ **P-1004**: CAR-OTP-2043-0536-R01 at 0540-0541, 0543-0544, 0547-0549, paras. 32-33, 54-55, 81-82, 84-91, 94, 96-97 [REDACTED]. See **P-1420**: CAR-OTP-2040-0811-R01 at 0826, paras. 94-95 [REDACTED].

⁸⁵⁷ **P-1004**: CAR-OTP-2043-0536-R01 at 0544, paras. 55, 57.

⁸⁵⁸ **P-2105**: CAR-OTP-2081-0037-R01 at 0045, paras. 46-47.

⁸⁵⁹ **P-2105**: CAR-OTP-2078-0003-R01 at 0022-0023.

⁸⁶⁰ **P-2105**: CAR-OTP-2078-0003-R01 at 0024, para. 128.

shared office in the main building with the CEDAD investigators in the living room of the villa.⁸⁶¹ There were five colonels under **SAID**'s command: "*Colonel Mahamat SALEH; TAHIR; NASSOUR; Saleh AWAT; and a Chadian*".⁸⁶²

324. P-0789, [REDACTED], provided an alphabetical list with staff members of CEDAD, which is dated 28 October 2013 and has ADAM's name and title on the last page.⁸⁶³ This list includes **SAID** at Nr. 32. This list also includes some of the other Seleka from the OCRB who are mentioned by witnesses as having moved with **SAID** to CEDAD, especially TAHIR BABIKIR (Nr. 53),⁸⁶⁴ Mahamat SALLEH ADOUM KETTE (Nr. 34) and Hissene DAMBOUCHA (Nr. 15). P-1752 states that he saw both DAMBOUCHA and Colonel Mahamat SALLET [ADOUM KETTE] at the CEDAD compound.⁸⁶⁵ He also mentions a Colonel "YASSIR".
325. In terms of chain of command, **SAID** was subordinate to ADAM but in charge of the Seleka colonels and their men.⁸⁶⁶ Each Colonel had about 20 Seleka working in his team and all came under **SAID**.⁸⁶⁷ These teams worked in shifts which ensured that the CEDAD compound was always guarded. The colonels under **SAID**'s command were often conducting operations with their teams.⁸⁶⁸ However, **SAID**, who was in command of the colonels, was mainly on site at the CEDAD compound.⁸⁶⁹ According to P-2105, "the duty teams as well as **SAID** had a list of people to be arrested, and patrols were deployed on the basis of [this list]," communicated by ADAM to **SAID** or the Seleka colonel on duty.
326. This is corroborated by P-1167.⁸⁷⁰ [REDACTED].⁸⁷¹ He states that ADAM was in charge of CEDAD, and that **SAID** was subordinate to him but superior to DAMBOUCHA, TAHIR and SALLET.

⁸⁶¹ **P-2105**: CAR-OTP-2078-0003-R01 at 0024, para. 128.

⁸⁶² **P-2105**: CAR-OTP-2078-0003-R01 at 0025, para. 129.

⁸⁶³ **P-0789** ANNEX D: CAR-OTP-2023-0646-R01.

⁸⁶⁴ TAHIR BABIKIR is named in the CEDAD staff list CAR-OTP-2023-0646-R01 at 0648 at Nr. 53. P-1004 [REDACTED], see CAR-OTP-2043-0536-R01 at 0547, para. 81. See **P-0338**: CAR-OTP-2068-0244-R01 at 0255, paras. 61-63 (Eng).

⁸⁶⁵ **P-1752**: CAR-OTP-2070-0080-R01 at 0084-0086, paras. 23-29.

⁸⁶⁶ **P-2105**: CAR-OTP-2083-0003-R01 at 0014, paras. 60-61; P-1004: CAR-OTP-2043-0536-R01 at 0546, para. 74.

⁸⁶⁷ **P-2105**: CAR-OTP-2078-0003-R01 at 0024, para. 131.

⁸⁶⁸ **P-2105**: CAR-OTP-2078-0003-R01 at 0025, para. 131.

⁸⁶⁹ **P-2105**: CAR-OTP-2078-0003-R01 at 0025, para. 131.

⁸⁷⁰ **P-1167**: CAR-OTP-2094-0002-R01 at 0027, paras. 152-153.

⁸⁷¹ **P-1167**: CAR-OTP-2094-0002-R01 at 0010, paras. 51-52.

327. According to P-0853, [REDACTED],⁸⁷² the CEDAD compound's security was provided by Seleka in military uniform.⁸⁷³ The Seleka commander for security was Colonel YASSIR, a Sudanese who spoke some Sango. There were three security teams of approximately 30 men to protect the compound. Each team had a captain, one of which was DAMBOUCHA. P-0853 confirms that SAID was also overall in charge of security at the CEDAD compound and the planning of operations, including in deciding who would go on the operations.⁸⁷⁴ This witness also explains that SAID was present regularly at the CEDAD compound and even slept there.⁸⁷⁵

iii. Furthering the secrecy of CEDAD operations by transporting Seleka elements in civilian clothes to the CEDAD compound

328. In addition to selecting Seleka elements to help staff the CEDAD and commanding the arrest patrols, SAID also coordinated their transportation and the security. In this, SAID furthered the secrecy of CEDAD operations. For example, the soldiers on duty at the CEDAD compound would go to SAID's home in 36 Villas, and SAID would transport them, in civilian clothing, from his home to the CEDAD compound.⁸⁷⁶

iv. Jointly (with ADAM) ordering the beatings of detainees on the pretext that they were "BOZIZE's men"

329. According to P-1004, ADAM and SAID jointly *oversaw* the beatings of prisoners at CEDAD which were conducted by Seleka using whips and other items.⁸⁷⁷ This *modus operandi* of beatings is corroborated by the victims.⁸⁷⁸

v. Personally going on operations to detain and harm people and assisting in interrogations

330. P-0853 recalls SAID's presence during an operation where [REDACTED] was arrested and then taken to the CEDAD compound.⁸⁷⁹

331. P-1004 states that SAID led the arrest of a man from BIMBO who was alleged to be a BOZIZE supporter, and brought him back to the CEDAD compound where he

⁸⁷² P-0853: CAR-OTP-2065-0180-R01 at 0184, para. 17.

⁸⁷³ P-0853: CAR-OTP-2065-0180-R01 at 0185, para. 23.

⁸⁷⁴ P-0853: CAR-OTP-2125-0886-R01 at 0889-0890, paras. 19.e, 20-21, 22, 25.

⁸⁷⁵ P-0853: CAR-OTP-2125-0886-R01 at 0889-0890, para. 21; P-0839: CAR-OTP-2127-9780-R01 at 9783-9784, paras. 17-19 (Fr).

⁸⁷⁶ P-2105: CAR-OTP-2083-0003-R01 at 0013, paras. 53-54.

⁸⁷⁷ P-1004: CAR-OTP-2043-0536-R01 at 0545, paras. 67-68.

⁸⁷⁸ See para. 64 of the DCC.

⁸⁷⁹ P-0853: CAR-OTP-2125-0886-R01 at 0889-0890, para. 22.

was detained and interrogated.⁸⁸⁰ P-1004 was ordered by **SAID** to participate in this arrest operation.⁸⁸¹ P-1007 describes that he witnessed **SAID** bringing detainees, who were hooded and tied, to interrogations into the CEDAD offices on two occasions.⁸⁸² He states that SAID also took part in the arrest of a [REDACTED].⁸⁸³

332. This [REDACTED] is P-0665. P-2105 remembers that **SAID** escorted the detainee P-0665 to his interrogation [REDACTED].⁸⁸⁴ While P-0665 himself does not mention the name of **SAID** in his statement, [REDACTED]. During the second and third time that he was interrogated there, he was hooded.⁸⁸⁵

333. Furthermore, P-3029 recognised **SAID** as one of the Seleka chiefs at the CEDAD compound who was with the Seleka elements who brought detainees into the compound on two occasions. He stated that **SAID** was nearby while the Seleka elements beat the prisoners, some of whom were tied *arbatachar*.⁸⁸⁶

334. While none of the detainees interviewed who were held at the CEDAD compound mention **SAID**'s name, they are able to report some names of Seleka elements guarding them. One name mentioned by four victims is **SAID**'s former deputy at the OCRB, TAHIR. P-0665 states that [REDACTED]. P-0500 states that [REDACTED]. P-0666 mentions [REDACTED].⁸⁸⁷ P-0545 remembers [REDACTED].⁸⁸⁸

vi. **SAID had the *mens rea* for aiding and abetting**

335. From the contributions outlined above in paragraphs 324 - 335, his position and role at CEDAD as well as his relationship to ADAM, it can be reasonably inferred that SAID aided, abetted or otherwise assisted the arrests and detentions at the CEDAD location with the purpose of furthering these crimes.

336. **SAID** was already working under ADAM at the OCRB as Seleka in charge, where he and the Seleka elements under his command were engaged in the detention of

⁸⁸⁰ **P-1004**: CAR-OTP-2043-0536-R01 at 0546, paras. 71-72.

⁸⁸¹ **P-1004**: CAR-OTP-2043-0536-R01 at 0546, para. 71.

⁸⁸² **P-1007**: CAR-OTP-2130-6792-R01 at 6822-6824, Ins. 1024-1110; CAR-OTP-2130-6792-R01 at 6804-6808, 6809, 6813, 6824, Ins. 398-478, 585-592, 722-736, 1098-1115.

⁸⁸³ **P-1007**: CAR-OTP-2130-6792-R01 at 6804-6808, 6809, 6813, 6824, Ins. 398-478, 585-592, 722-736, 1098-1115.

⁸⁸⁴ **P-2105**: CAR-OTP-2078-0003-R01 at 0026, paras. 136-137 [REDACTED].

⁸⁸⁵ **P-0665**: CAR-OTP-2033-7960-R01 at 7964-7965, paras. 27-31, 33.

⁸⁸⁶ **P-3029**: CAR-OTP-2127-9572-R01 at 9576, 9581, paras. 31, 45.

⁸⁸⁷ **UN OCHCR complaint**: CAR-OTP-2018-0478; CAR-OTP-2053-0460-R01.

⁸⁸⁸ See **P-0545**: CAR-OTP-2102-0293-R01 at 0301, para. 43.

perceived BOZIZE supporters. The evidence shows that he then recruited and transferred with the OCRB-Seleka to CEDAD and assisted ADAM to arbitrary arrest and detain persons within the CEDAD structure and location, albeit in a different role than at the OCRB.

337. **SAID** was sufficiently aware that the colonels he recruited were sent out to arrest perceived BOZIZE supporters, as he commanded them and himself participated in arrest operations (see paragraphs 326-335). As **SAID** received lists from ADAM he was also sufficiently aware of who was to be arrested and could deduce that they were Christian and from certain neighbourhoods. As he was the commander of the Seleka at CEDAD, and present at the CEDAD compound regularly, he also knew of the arrest techniques applied by his Seleka elements.
338. **SAID** was on site regularly.⁸⁸⁹ Thus, he was also sufficiently aware that the arrests were conducted for the purpose of detaining persons in the three small cells at the CEDAD compound. Neighbours describe that screams could be heard from behind the walls of the compound.⁸⁹⁰ An agent described that he saw blood and clothes on the floor every day he was at the CEDAD location.⁸⁹¹ In addition, the civil servants described that the detentions were obvious to everyone working there.⁸⁹² Furthermore, the CEDAD compound was a confined, small space in which the three cells where detainees were held could not be overlooked.⁸⁹³ The cells were not only visible from the entrance, but also from the veranda and the side windows of the main villa directly opposite the cells.

c) Knowledge and intent

339. **SAID**'s intent and knowledge under article 30 can be reasonably inferred from his above contributions. In addition, the evidence shows that he was present at CEDAD regularly and also in direct contact with the detainees.

⁸⁸⁹ **P-0853**: CAR-OTP-2125-0886-R01 at 0889-0890, para. 21.

⁸⁹⁰ **P-0962**: CAR-OTP-2130-5748-R01 AT 5754-5755 (Fr); **P-0963**: CAR-OTP-2127-9652-R01 at 9656-9658, paras. 20-35 (Fr).

⁸⁹¹ **P-3029** (Eng): CAR-OTP-2127-9572-R01 at 9578, para. 32.

⁸⁹² **P-0853**: CAR-OTP-2065-0180-R01 at 0190-0191, paras. 53, 59; **P-2181**: CAR-OTP-2116-0598-R01 at 0608, para. 52.

⁸⁹³ **FSS Report**: CAR-OTP-2118-3978-R01 at 3991, 3992, 3993, 3397 (references to aerial videos), 3998-3999 (references to ground based videos), 4000, 4006, 4007, 4008, 0420, 0421, 0425.

2. *Article 25(3)(d): Common purpose liability*

340. **SAID** is also charged in the alternative under article 25(3)(d) as he intentionally contributed to the commission of the crimes committed by the Seleka elements and leaders at the CEDAD location who acted pursuant to a common purpose. This common purpose was to target members of the civilian population perceived to support former President BOZIZE (and thereby assumed to be opposed to the Seleka regime), by committing the crimes charged in Counts 8-14 of the DCC (“CEDAD Common Purpose”). The members of the civilian population were overwhelmingly Christian males, from the Gbaya, Banda, or Mandja ethnic tribes, from certain neighbourhoods or linked to persons seen to support BOZIZE or the Anti-Balaka.⁸⁹⁴
341. This common purpose evolved when the Seleka took over the CEDAD compound, at the latest with the first arrest on 15 September 2013. It lasted until the detainees were transferred out of the CEDAD compound on or about 8 November 2013.
342. **SAID** contributed to the commission of the crimes charged in Counts 8-14 by the Seleka elements at the CEDAD compound and its leaders such as ADAM, acting pursuant to the common purpose. His contributions were committed with the aim of furthering the criminal activity or the criminal purpose of the CEDAD-Seleka who committed the arbitrary arrests and detentions at the CEDAD compound including the mistreatment of the detainees.

a) **Common purpose**

343. The evidence establishes that from at least 15 September 2013 onwards, the CEDAD-Seleka sought to arrest, detain, mistreat and otherwise punish perceived BOZIZE supporters at the CEDAD compound as their common purpose. This common purpose was first implemented at the OCRB. After SAID and OCRB-Seleka under his command were ousted from the OCRB on 30 August 2013, and ADAM was relieved of his post as Minister of Public Security, the decision was taken to continue to implement the common purpose at the CEDAD location, with the first arrest made on 15 September 2013 [REDACTED].

⁸⁹⁴ See *supra*, paras. 315-318.

344. The common purpose shared by ADAM, AL-BACHAR, SAID, DAMBOUCHA, TAHIR, SALLET and the Seleka elements in the arrest patrols consisted of violent abductions and prolonged detention periods under inhumane conditions and without providing the detainees with access to judicial safeguards and due process until mid-November 2013. **SAID**, as the “operations commander” recruiting and overseeing the arrest patrols, shared this purpose.

345. That **SAID** was a member of the group of Seleka at the CEDAD compound can be reasonably inferred from the accounts of witnesses interviewed who state that he was regularly present at the compound, and describe his position as “operations commander.” **SAID** and the CEDAD-Seleka coordinated to keep the CEDAD location secret without access to judicial or other oversight.

b) SAID contributed to the common criminal purpose

346. SAID’s contributions in furtherance of the common purpose under article 25(3)(d) are those outlined above under article 25(3)(c).

c) Aim of furthering the criminal activity

347. The evidence as set out above regarding his contributions, his role and his continuous presence at the CEDAD location shows that **SAID** intentionally contributed to the commission of the crimes charged in Counts 8-14 by members of the CEDAD-Seleka acting pursuant to the CEDAD Common Purpose, with the aim of furthering their criminal activity or the criminal purpose, or in the knowledge of their intention to commit those crimes.



Karim A. A. Khan QC, Prosecutor

Dated this 8th day of December 2021
At the Hague, The Netherlands