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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 Confidential Annexes A-D**

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

¹ See Section III. A.

² See ICC-01/14-01/21-144-Conf+Conf-Anxs.

³ [REDACTED].

⁴ See *infra*, paras. 9, 13-16.

⁵ [REDACTED].

⁶ [REDACTED].

⁷ [REDACTED].

⁸ [REDACTED].

⁹ [REDACTED].

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. 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

¹⁰ [REDACTED].

¹¹ [REDACTED].

¹² [REDACTED].

¹³ [REDACTED].

¹⁴ [REDACTED].

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

¹⁶ [REDACTED].

¹⁷ [REDACTED].

¹⁸ [REDACTED].

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 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

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.

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.

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 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

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*).

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 [REDACTED].

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-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

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"), [REDACTED].

³² [REDACTED].

³³ [REDACTED].

³⁴ [REDACTED].

³⁵ [REDACTED].

³⁶ [REDACTED].

³⁷ See *infra*, para. 21.

³⁸ [REDACTED].

³⁹ See *infra*, para. 28-40; [REDACTED].

⁴⁰ [REDACTED].

Seleka, as well as the youth groups COCORA and COAC, which were formed and armed by associates of BOZIZE prior to the Seleka's takeover of Bangui, with the aim of resisting the Seleka's advance.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.

(i) The Seleka were able to conduct military operations

⁴¹ [REDACTED].

⁴² [REDACTED].

⁴³ [REDACTED].

⁴⁴ [REDACTED].

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.

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 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

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. [REDACTED].

⁴⁸ [REDACTED].

⁴⁹ [REDACTED].

⁵⁰ [REDACTED].

⁵¹ [REDACTED].

⁵² [REDACTED].

⁵³ [REDACTED].

⁵⁴ [REDACTED].

⁵⁵ [REDACTED].

⁵⁶ [REDACTED].

⁵⁷ [REDACTED].

⁵⁸ [REDACTED].

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
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

⁵⁹ [REDACTED].

⁶⁰ See DCC, paras. 33.d, 33.f, 33.i-33.j, 33.p-33.s [REDACTED].

⁶¹ [REDACTED].

⁶² [REDACTED].

⁶³ [REDACTED].

⁶⁴ [REDACTED].

⁶⁵ [REDACTED].

⁶⁶ [REDACTED].

⁶⁷ [REDACTED].

⁶⁸ [REDACTED].

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

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-

⁶⁹ [REDACTED].

⁷⁰ [REDACTED].

⁷¹ [REDACTED].

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

⁷³ [REDACTED].

⁷⁴ [REDACTED].

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").

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 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

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

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”).

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.
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 Gobere (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 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

⁸¹ [REDACTED].

⁸² [REDACTED].

⁸³ [REDACTED].

⁸⁴ [REDACTED].

⁸⁵ [REDACTED].

⁸⁶ [REDACTED].

⁸⁷ [REDACTED].

⁸⁸ [REDACTED].

⁸⁹ [REDACTED].

⁹⁰ [REDACTED].

⁹¹ [REDACTED].

⁹² [REDACTED].

⁹³ [REDACTED].

⁹⁴ [REDACTED].

⁹⁵ [REDACTED].

⁹⁶ [REDACTED].

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-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

⁹⁷ [REDACTED].

⁹⁸ [REDACTED].

⁹⁹ [REDACTED].

¹⁰⁰ [REDACTED].

¹⁰¹ [REDACTED].

¹⁰² [REDACTED].

¹⁰³ [REDACTED].

¹⁰⁴ [REDACTED].

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 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 Presidential Guards who remained loyal to BOZIZE — including KOUDEMON and the

¹⁰⁵ [REDACTED].

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 [REDACTED].

¹⁰⁹ [REDACTED].

¹¹⁰ [REDACTED].

¹¹¹ [REDACTED].

¹¹² [REDACTED].

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 Bossemsptélé, 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
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

¹¹³ [REDACTED].

¹¹⁴ [REDACTED].

¹¹⁵ [REDACTED].

¹¹⁶ [REDACTED].

¹¹⁷ [REDACTED].

¹¹⁸ [REDACTED].

¹¹⁹ [REDACTED].

¹²⁰ [REDACTED].

¹²¹ [REDACTED].

¹²² [REDACTED].

¹²³ [REDACTED].

¹²⁴ [REDACTED].

¹²⁵ [REDACTED].

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 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 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

¹²⁶ [REDACTED].

¹²⁷ [REDACTED].

¹²⁸ [REDACTED].

¹²⁹ [REDACTED].

¹³⁰ [REDACTED].

¹³¹ [REDACTED].

¹³² [REDACTED].

¹³³ See *infra*, para. 54, 56 (citing sources); [REDACTED].

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

¹³⁵ *Id.*

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-

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”).

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,

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.

¹⁴³ [REDACTED].

¹⁴⁴ [REDACTED].

¹⁴⁵ [REDACTED].

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 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

¹⁴⁶ [REDACTED].

¹⁴⁷ [REDACTED].

¹⁴⁸ [REDACTED].

¹⁴⁹ [REDACTED].

¹⁵⁰ [REDACTED].

¹⁵¹ [REDACTED].

¹⁵² [REDACTED].

¹⁵³ [REDACTED].

¹⁵⁴ See *infra*, para. 73-85; [REDACTED].

¹⁵⁵ [REDACTED].

¹⁵⁶ [REDACTED].

¹⁵⁷ [REDACTED].

¹⁵⁸ [REDACTED].

¹⁵⁹ [REDACTED].

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

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 [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 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. [REDACTED].¹⁷⁵ Immediately after, ADAM ordered his subordinates to “finish the job.”¹⁷⁶ [REDACTED].¹⁷⁷ [REDACTED],¹⁷⁸ [REDACTED].¹⁷⁹

¹⁶⁰ [REDACTED].

¹⁶¹ [REDACTED].

¹⁶² [REDACTED] *see also supra*, para. 57; [REDACTED].

¹⁶³ [REDACTED].

¹⁶⁴ [REDACTED].

¹⁶⁵ [REDACTED].

¹⁶⁶ [REDACTED].

¹⁶⁷ [REDACTED].

¹⁶⁸ [REDACTED].

¹⁶⁹ [REDACTED].

¹⁷⁰ [REDACTED].

¹⁷¹ [REDACTED].

¹⁷² [REDACTED].

¹⁷³ [REDACTED].

¹⁷⁴ [REDACTED].

¹⁷⁵ [REDACTED].

¹⁷⁶ [REDACTED].

¹⁷⁷ [REDACTED].

¹⁷⁸ [REDACTED].

¹⁷⁹ [REDACTED].

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 of [REDACTED].¹⁸⁰ The Seleka also shot at P-1424, [REDACTED].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 [REDACTED].¹⁸³ Some of the people arrested by the Seleka during this incident never returned. [REDACTED].¹⁸⁴ [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 [REDACTED].¹⁸⁸ Within a day or two, other Prosecution 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

¹⁸⁰ [REDACTED].

¹⁸¹ [REDACTED].

¹⁸² [REDACTED].

¹⁸³ [REDACTED].

¹⁸⁴ [REDACTED].

¹⁸⁵ [REDACTED].

¹⁸⁶ [REDACTED].

¹⁸⁷ [REDACTED].

¹⁸⁸ [REDACTED].

¹⁸⁹ [REDACTED].

¹⁹⁰ [REDACTED].

¹⁹¹ [REDACTED].

¹⁹² [REDACTED].

¹⁹³ [REDACTED].

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 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.

¹⁹⁴ [REDACTED].

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.

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

¹⁹⁸ See *Ongwen TJ*, paras. 2678-2679.

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
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. [REDACTED]. 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

¹⁹⁹ [REDACTED].

²⁰⁰ [REDACTED].

²⁰¹ [REDACTED].

²⁰² [REDACTED].

²⁰³ See *supra*, paras. 62-65.

²⁰⁴ [REDACTED].

²⁰⁵ See *supra*, paras. 58, 60; [REDACTED].

²⁰⁶ [REDACTED].

²⁰⁷ [REDACTED].

of this is the 14-16 April Boy Rabe attack described above. [REDACTED].²⁰⁸
[REDACTED].²⁰⁹ [REDACTED].²¹⁰

74. A day or two after that meeting, the Seleka attacked Boy Rabe, “firing their weapons at everyone.”²¹¹ [REDACTED].²¹² As he put it, “[t]he Seleka looted, tortured, raped and killed many people, punishing the entire community in retaliation for the actions of the few responsible individuals.”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 [REDACTED]. [REDACTED].²¹⁴ Another Seleka insider 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

²⁰⁸ [REDACTED].

²⁰⁹ [REDACTED].

²¹⁰ [REDACTED].

²¹¹ [REDACTED].

²¹² [REDACTED].

²¹³ [REDACTED].

²¹⁴ [REDACTED].

²¹⁵ [REDACTED].

²¹⁶ [REDACTED].

²¹⁷ [REDACTED].

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 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. [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, [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

²¹⁸ See *infra*, Section III; [REDACTED].

²¹⁹ See DCC, para. 33, 64; [REDACTED].

²²⁰ [REDACTED].

²²¹ [REDACTED].

²²² [REDACTED].

²²³ [REDACTED].

²²⁴ [REDACTED].

²²⁵ [REDACTED].

²²⁶ [REDACTED].

²²⁷ See *supra*, para. 73.

²²⁸ [REDACTED].

Incidents also demonstrated advance planning and/or coordination by Seleka leaders, targeted the same types of civilians, and resulted in many victims.

(i) Planning and Coordination

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-day April 2013 operation in Boy Rabe.²³⁷ One witness, P-1524, watched as the Seleka

²²⁹ See *supra*, paras. 54-64; see *infra*, Section III (Individual Criminal Responsibility); [REDACTED].

²³⁰ See *supra*, paras. 56, 60; [REDACTED].

²³¹ [REDACTED].

²³² [REDACTED].

²³³ [REDACTED].

²³⁴ [REDACTED].

²³⁵ [REDACTED].

²³⁶ [REDACTED].

²³⁷ [REDACTED].

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 insiders 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 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

²³⁸ [REDACTED].

²³⁹ [REDACTED].

²⁴⁰ [REDACTED].

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

²⁴² [REDACTED].

²⁴³ [REDACTED].

²⁴⁴ See DCC, paras. 33, 55, 64.

²⁴⁵ See *supra*, paras. 54-64.

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

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 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.

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.

²⁴⁸ See *infra*, Section III (Individual Criminal Responsibility); [REDACTED].

²⁴⁹ [REDACTED].

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 insider 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
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

²⁵⁰ See DCC, paras. 29-36.

²⁵¹ See DCC, paras. 50-67.

²⁵² [REDACTED].

²⁵³ [REDACTED].

²⁵⁴ [REDACTED].

²⁵⁵ [REDACTED].

²⁵⁶ [REDACTED].

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 Insider witness P-1167 states that DAMBOUCHA held a commanding role at OCRB and was involved in crimes committed against detainees there.²⁶⁵ P-2563, another Seleka insider, 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 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

²⁵⁷ [REDACTED].

²⁵⁸ [REDACTED].

²⁵⁹ See *infra*, para. 163; [REDACTED].

²⁶⁰ [REDACTED].

²⁶¹ [REDACTED].

²⁶² [REDACTED].

²⁶³ [REDACTED].

²⁶⁴ [REDACTED].

²⁶⁵ [REDACTED].

²⁶⁶ [REDACTED]. See *infra*, paras. 104, 114.

²⁶⁷ [REDACTED].

²⁶⁸ *Id.*, para. 95.

²⁶⁹ [REDACTED].

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 [REDACTED].

²⁷² [REDACTED].

²⁷³ [REDACTED].

²⁷⁴ [REDACTED].

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 the Prosecutors Office for ordinary crimes cases at OCRB, 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 insider witnesses – describe that when ADAM came to the OCRB, he would typically be briefed by **SAID**.²⁸³ P-0338 also states that **SAID** would ensure that the OCRB 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 OCRB Seleka,²⁸⁶ and he reported about the activities of the OCRB 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 OCRB was a

²⁷⁵ [REDACTED].

²⁷⁶ [REDACTED].

²⁷⁷ [REDACTED].

²⁷⁸ [REDACTED].

²⁷⁹ [REDACTED].

²⁸⁰ [REDACTED].

²⁸¹ [REDACTED].

²⁸² [REDACTED]. See *infra*, paras. 165-166.

²⁸³ [REDACTED].

²⁸⁴ [REDACTED].

²⁸⁵ [REDACTED].

²⁸⁶ [REDACTED].

²⁸⁷ [REDACTED].

²⁸⁸ [REDACTED].

²⁸⁹ [REDACTED].

²⁹⁰ See *infra*, para. 112.

²⁹¹ [REDACTED].

component — fell within ADAM’s official remit.²⁹² Because of his position as Minister of Security, ADAM was in charge of the OCRB – he had *de jure* and *de facto* authority.²⁹³ While the Seleka assigned to duty at the OCRB were not provided with formal police training,²⁹⁴ ADAM signed and issued Seleka membership identification cards to them.²⁹⁵

102. **SAID**’s power at OCRB flowed directly from ADAM. According to insider witnesses and detainees alike, ADAM was present at the OCRB 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 OCRB Seleka,³⁰⁰ bringing in recruits or detainees,³⁰¹ patrolling at night together with other OCRB Seleka,³⁰² and holding meetings in the OCRB’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 OCRB 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 pressure.³¹⁰ P-0787, [REDACTED], 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

²⁹² [REDACTED].

²⁹³ [REDACTED].

²⁹⁴ [REDACTED].

²⁹⁵ [REDACTED].

²⁹⁶ [REDACTED].

²⁹⁷ [REDACTED].

²⁹⁸ [REDACTED].

²⁹⁹ [REDACTED].

³⁰⁰ [REDACTED].

³⁰¹ [REDACTED].

³⁰² [REDACTED].

³⁰³ [REDACTED].

³⁰⁴ [REDACTED].

³⁰⁵ [REDACTED].

³⁰⁶ [REDACTED].

³⁰⁷ [REDACTED].

³⁰⁸ [REDACTED].

³⁰⁹ [REDACTED].

³¹⁰ [REDACTED].

³¹¹ [REDACTED].

³¹² [REDACTED].

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 **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

³¹³ [REDACTED].

³¹⁴ [REDACTED].

³¹⁵ [REDACTED].

³¹⁶ See *infra*, para. 114.

³¹⁷ [REDACTED].

³¹⁸ [REDACTED].

³¹⁹ [REDACTED].

³²⁰ [REDACTED].

³²¹ [REDACTED].

³²² [REDACTED].

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. Insider 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 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

³²³ [REDACTED].

³²⁴ [REDACTED].

³²⁵ [REDACTED].

³²⁶ [REDACTED].

³²⁷ See *infra*, paras. 323-330. [REDACTED].

³²⁸ [REDACTED].

³²⁹ [REDACTED].

³³⁰ [REDACTED].

³³¹ [REDACTED].

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 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 from the former BND joined the CEDAD.³⁴⁴

³³² [REDACTED].

³³³ [REDACTED].

³³⁴ [REDACTED].

³³⁵ [REDACTED].

³³⁶ [REDACTED].

³³⁷ [REDACTED].

³³⁸ [REDACTED].

³³⁹ [REDACTED].

³⁴⁰ [REDACTED].

³⁴¹ [REDACTED].

³⁴² [REDACTED].

³⁴³ [REDACTED].

³⁴⁴ [REDACTED].

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 Insider 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

a) [REDACTED]

120. [REDACTED].³⁵¹

³⁴⁵ [REDACTED].

³⁴⁶ [REDACTED].

³⁴⁷ [REDACTED].

³⁴⁸ [REDACTED].

³⁴⁹ [REDACTED].

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

³⁵¹ [REDACTED].

b) [REDACTED]

121. [REDACTED].³⁵² [REDACTED].³⁵³ [REDACTED].³⁵⁴ [REDACTED].³⁵⁵

c) [REDACTED]

122. [REDACTED].³⁵⁶ [REDACTED].³⁵⁷ [REDACTED].

d) [REDACTED]

123. [REDACTED].³⁵⁸ [REDACTED].³⁵⁹

e) [REDACTED]

124. [REDACTED]³⁶⁰ [REDACTED]³⁶¹.

f) [REDACTED]

125. [REDACTED].³⁶² [REDACTED].³⁶³

g) [REDACTED]³⁶⁴

126. [REDACTED].³⁶⁵ [REDACTED].³⁶⁶

h) [REDACTED]³⁶⁷

127. [REDACTED].³⁶⁸ [REDACTED].³⁶⁹ [REDACTED].³⁷⁰ [REDACTED].³⁷¹

³⁵² [REDACTED].

³⁵³ [REDACTED].

³⁵⁴ [REDACTED].

³⁵⁵ [REDACTED].

³⁵⁶ [REDACTED].

³⁵⁷ [REDACTED].

³⁵⁸ [REDACTED].

³⁵⁹ [REDACTED].

³⁶⁰ [REDACTED].

³⁶¹ [REDACTED].

³⁶² [REDACTED].

³⁶³ [REDACTED].

³⁶⁴ [REDACTED].

³⁶⁵ [REDACTED].

³⁶⁶ [REDACTED].

³⁶⁷ [REDACTED].

³⁶⁸ [REDACTED].

³⁶⁹ [REDACTED].

³⁷⁰ [REDACTED].

³⁷¹ [REDACTED].

i) [REDACTED]

128. [REDACTED],³⁷² [REDACTED].³⁷³ [REDACTED].³⁷⁴

j) [REDACTED]

129. [REDACTED]³⁷⁵ [REDACTED].³⁷⁶ [REDACTED].³⁷⁷

k) [REDACTED]³⁷⁸

130. [REDACTED]³⁷⁹ [REDACTED].³⁸⁰ [REDACTED]. [REDACTED],³⁸¹
[REDACTED]³⁸² [REDACTED].³⁸³ [REDACTED].³⁸⁴

l) [REDACTED]

131. [REDACTED].³⁸⁵

m) [REDACTED]

132. [REDACTED].³⁸⁶ [REDACTED].

n) [REDACTED]

133. [REDACTED],³⁸⁷ [REDACTED]³⁸⁸, [REDACTED].³⁸⁹ [REDACTED].³⁹⁰

o) [REDACTED]

134. [REDACTED].³⁹¹

³⁷² [REDACTED].

³⁷³ [REDACTED].

³⁷⁴ [REDACTED].

³⁷⁵ [REDACTED].

³⁷⁶ [REDACTED]

³⁷⁷ [REDACTED].

³⁷⁸ [REDACTED].

³⁷⁹ [REDACTED].

³⁸⁰ [REDACTED].

³⁸¹ [REDACTED].

³⁸² [REDACTED].

³⁸³ [REDACTED].

³⁸⁴ [REDACTED].

³⁸⁵ [REDACTED].

³⁸⁶ [REDACTED].

³⁸⁷ [REDACTED].

³⁸⁸ [REDACTED].

³⁸⁹ [REDACTED].

³⁹⁰ [REDACTED].

³⁹¹ [REDACTED].

p) [REDACTED]

135. [REDACTED],³⁹² [REDACTED],³⁹³ [REDACTED]³⁹⁴ [REDACTED].³⁹⁵
 [REDACTED].³⁹⁶ [REDACTED].³⁹⁷ [REDACTED].³⁹⁸ [REDACTED]³⁹⁹,
 [REDACTED]⁴⁰⁰, [REDACTED]⁴⁰¹, [REDACTED]⁴⁰², [REDACTED]⁴⁰³,
 [REDACTED]⁴⁰⁴ [REDACTED].⁴⁰⁵ [REDACTED].⁴⁰⁶

q) [REDACTED]

136. [REDACTED].⁴⁰⁷ [REDACTED].⁴⁰⁸ [REDACTED].⁴⁰⁹

r) [REDACTED]

137. [REDACTED]⁴¹⁰ [REDACTED]⁴¹¹ [REDACTED].⁴¹² [REDACTED].⁴¹³
 [REDACTED].⁴¹⁴

s) [REDACTED]

138. [REDACTED].⁴¹⁵ [REDACTED].⁴¹⁶

³⁹² [REDACTED].

³⁹³ [REDACTED].

³⁹⁴ [REDACTED].

³⁹⁵ [REDACTED].

³⁹⁶ [REDACTED].

³⁹⁷ [REDACTED].

³⁹⁸ [REDACTED].

³⁹⁹ [REDACTED].

⁴⁰⁰ [REDACTED].

⁴⁰¹ [REDACTED].

⁴⁰² [REDACTED].

⁴⁰³ [REDACTED].

⁴⁰⁴ [REDACTED].

⁴⁰⁵ [REDACTED].

⁴⁰⁶ [REDACTED].

⁴⁰⁷ [REDACTED].

⁴⁰⁸ [REDACTED].

⁴⁰⁹ [REDACTED].

⁴¹⁰ [REDACTED].

⁴¹¹ [REDACTED].

⁴¹² [REDACTED].

⁴¹³ [REDACTED].

⁴¹⁴ [REDACTED].

⁴¹⁵ [REDACTED].

⁴¹⁶ [REDACTED].

t) [REDACTED]

139. [REDACTED].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 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

⁴¹⁷ [REDACTED].

⁴¹⁸ [REDACTED].

⁴¹⁹ [REDACTED].

⁴²⁰ [REDACTED].

⁴²¹ [REDACTED].

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.*

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 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

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. Thaçi et al.*, Decision on Motions Challenging the Jurisdiction of the Specialist Chambers, Case No. KSC-BC-2020-06, 22 July 2021 (“*Thaçi* Jurisdiction Decision”), para. 153 (rejecting the view that, in 1999, IHL provided any legal basis for deprivation of liberty in non-international armed conflict); UK Supreme Court, *Al Waheed v. Ministry of Defence / Serdar Mohammed v. Ministry of Defence* [2017] UKSC 2 (“*Mohammed v. Ministry of Defence*”), paras. 235 (ii), 258, 274-275 (Lord Reed and Lord Kerr, dissenting, concluding that as late as 2010 there was no IHL right to intern in non-international armed conflict, notwithstanding “substantial arguments” each way and “much to be said” for the view that there should be such a right); with ICRC, *Updated Commentary on the Third Geneva Convention* (Geneva/Cambridge: ICRC/CUP, 2020) (“ICRC, *Updated Commentary on Third Geneva Convention*”), mns. 758, 764-765; ICRC, *Internment in Armed Conflict: Basic Rules and Challenges*, Opinion Paper, November 2014 (“ICRC, *Internment* Opinion Paper”), pp. 6-8 (expressing the ICRC’s institutional view that “both customary and treaty IHL contain an inherent power to intern and may in this respect be said to provide a legal basis for internment in [non-international armed conflict]”, but further suggesting that exercise of such a power would still require “additional authority related to the grounds for internment and the process to be followed”, in order to satisfy the “principle of legality”); D. Murray, ‘Non-State armed groups, detention authority in non-international armed conflict, and the coherence of international law: searching for a way forward,’ [2017] 30(2) *Leiden Journal of International Law* 435, pp. 448, 455-456 (concluding that treaty IHL must be interpreted to establish implicitly a legal basis for detention in non-international armed conflict). See also Dörmann, pp. 353-354; *Mohammed v. Ministry of Defence*, paras. 14-16, 44, 113, 147-148, 224, 231 (the 7-strong majority of the Court declining to rule on the existence or not of any right to intern in non-international armed conflict, based in particular on the view of Lord Sumption and Lady Hale that “if there is nevertheless an insufficient consensus among states upon the legal right of participants in armed conflicts to detain under customary international law, it is not because of differences about the existence of a right of detention in principle”, but rather “differences among states about the *appropriate limits* of the right of detention, the conditions of its exercise and the extent to which special provision should be made for non-state actors”, emphasis added). See further Sivakumaran, p. 303 (noting that, to any extent required, “legislation of the non-state armed group may suffice for the purposes of non-state armed group detention”). For the well-established position in international armed conflict, see e.g. Third Geneva Convention (internment of prisoners of war); Fourth Geneva Convention (internment of civilians).

⁴²⁷ See Dörmann, pp. 349-352.

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.
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

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 [REDACTED].

⁴³² [REDACTED].

⁴³³ [REDACTED].

⁴³⁴ [REDACTED].

⁴³⁵ See *supra*, paras. 98-99.

⁴³⁶ [REDACTED].

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 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.

⁴³⁷ [REDACTED].

⁴³⁸ [REDACTED].

⁴³⁹ See *infra*, para. 163; [REDACTED].

⁴⁴⁰ [REDACTED].

⁴⁴¹ [REDACTED].

⁴⁴² [REDACTED].

⁴⁴³ [REDACTED].

⁴⁴⁴ [REDACTED].

⁴⁴⁵ [REDACTED].

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 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 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

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 [REDACTED].

⁴⁴⁸ [REDACTED].

⁴⁴⁹ [REDACTED].

⁴⁵⁰ [REDACTED].

⁴⁵¹ See *supra*, para. 128 [REDACTED].

⁴⁵² See *supra*, paras. 127, 130, 136; [REDACTED].

⁴⁵³ [REDACTED].

⁴⁵⁴ [REDACTED].

⁴⁵⁵ [REDACTED].

suspicious 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 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

⁴⁵⁶ [REDACTED].

⁴⁵⁷ [REDACTED]. See *supra*, para. 138.

⁴⁵⁸ [REDACTED].

⁴⁵⁹ [REDACTED].

⁴⁶⁰ [REDACTED].

⁴⁶¹ [REDACTED].

⁴⁶² [REDACTED].

⁴⁶³ [REDACTED].

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

⁴⁶⁴ [REDACTED].

⁴⁶⁵ [REDACTED].

⁴⁶⁶ [REDACTED].

⁴⁶⁷ [REDACTED]; see also sources at para. 128.

⁴⁶⁸ [REDACTED].

⁴⁶⁹ [REDACTED].

⁴⁷⁰ [REDACTED].

⁴⁷¹ [REDACTED].

161. [REDACTED]. [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 [REDACTED] did not have 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.

⁴⁷² [REDACTED]; *see also supra*, para. 128.

⁴⁷³ [REDACTED].

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

⁴⁷⁵ [REDACTED].

⁴⁷⁶ [REDACTED].

⁴⁷⁷ [REDACTED].

⁴⁷⁸ At least 31 victims were detained in the underground cell at OCRB, see DCC, para. 33. [REDACTED].

⁴⁷⁹ [REDACTED].

⁴⁸⁰ [REDACTED].

⁴⁸¹ [REDACTED].

⁴⁸² *See supra*, para. 137 [REDACTED].

⁴⁸³ [REDACTED].

⁴⁸⁴ [REDACTED].

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-incidents 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, [REDACTED].⁴⁹⁸ [REDACTED].⁴⁹⁹ [REDACTED].⁵⁰⁰ [REDACTED].⁵⁰¹ [REDACTED].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

⁴⁸⁹ [REDACTED].

⁴⁹⁰ Victims of *arbatachar* at OCRB (at least 16): [REDACTED].

⁴⁹¹ [REDACTED].

⁴⁹² [REDACTED].

⁴⁹³ [REDACTED].

⁴⁹⁴ [REDACTED].

⁴⁹⁵ [REDACTED].

⁴⁹⁶ [REDACTED].

⁴⁹⁷ [REDACTED].

⁴⁹⁸ See para. 128 above.

⁴⁹⁹ [REDACTED].

⁵⁰⁰ [REDACTED].

⁵⁰¹ [REDACTED].

⁵⁰² [REDACTED].

⁵⁰³ [REDACTED].

⁵⁰⁴ [REDACTED].

⁵⁰⁵ [REDACTED].

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. [REDACTED].⁵⁰⁸ P-2478 describes that it was TAHIR and **SAID** who would give the orders for the torturing of the prisoners.⁵⁰⁹

174. In the case of the persons detained [REDACTED] the severe beating which they received upon their arrival at OCRB was intended to punish and intimidate, as it was paired with muddying their backs in order to further increase the pain, and they were told not to cry out otherwise the beating would start again.

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)

⁵⁰⁶ [REDACTED].

⁵⁰⁷ [REDACTED].

⁵⁰⁸ [REDACTED].

⁵⁰⁹ [REDACTED].

⁵¹⁰ See *supra*, para. 128.

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 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.

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 [REDACTED].

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 [REDACTED] the Red Cross and MSF come to OCRB only once or twice [REDACTED] to give detainees some medicine.⁵¹⁵
183. Prisoners like [REDACTED] 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 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 [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 [REDACTED].⁵²³ [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.

⁵¹⁴ [REDACTED].

⁵¹⁵ [REDACTED].

⁵¹⁶ [REDACTED].

⁵¹⁷ [REDACTED].

⁵¹⁸ [REDACTED].

⁵¹⁹ [REDACTED].

⁵²⁰ [REDACTED].

⁵²¹ [REDACTED].

⁵²² [REDACTED].

⁵²³ [REDACTED].

⁵²⁴ [REDACTED].

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.

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 OCB, as charged in Count 7 of the DCC. The acts of OCB-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 OCB 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).

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

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
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

⁵²⁶ [REDACTED].

⁵²⁷ [REDACTED].

⁵²⁸ [REDACTED].

⁵²⁹ [REDACTED].

⁵³⁰ [REDACTED].

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.

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, 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 OCRB included [REDACTED];⁵³⁷ [REDACTED];⁵³⁸ [REDACTED];⁵³⁹ [REDACTED];⁵⁴⁰ [REDACTED]; [REDACTED];⁵⁴¹ [REDACTED];⁵⁴² [REDACTED].⁵⁴³
195. The men detained at OCRB 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

⁵³² *Ongwen* TJ, para. 2737.

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

⁵³⁴ [REDACTED].

⁵³⁵ [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 [REDACTED].

⁵³⁸ [REDACTED].

⁵³⁹ [REDACTED].

⁵⁴⁰ [REDACTED].

⁵⁴¹ [REDACTED].

⁵⁴² [REDACTED].

⁵⁴³ [REDACTED].

⁵⁴⁴ [REDACTED].

⁵⁴⁵ [REDACTED].

the military.⁵⁴⁶ There is no evidence that any of them were taking active part in hostilities when they were arrested.

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:

- [REDACTED],⁵⁴⁹
- [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

⁵⁴⁶ [REDACTED].

⁵⁴⁷ [REDACTED].

⁵⁴⁸ [REDACTED].

⁵⁴⁹ [REDACTED].

⁵⁵⁰ [REDACTED].

⁵⁵¹ [REDACTED].

to 20 years, and would kill the lot of them.⁵⁵² [REDACTED],⁵⁵³ [REDACTED].⁵⁵⁴ [REDACTED].

- [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
- [REDACTED].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

⁵⁵² [REDACTED].

⁵⁵³ [REDACTED].

⁵⁵⁴ [REDACTED].

⁵⁵⁵ [REDACTED].

⁵⁵⁶ [REDACTED].

⁵⁵⁷ [REDACTED].

⁵⁵⁸ [REDACTED].

⁵⁵⁹ [REDACTED].

⁵⁶⁰ [REDACTED].

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.

provided an essential contribution to the common plan;⁵⁶⁵ (c) the accused meant to 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

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*, 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.

Plan”). This agreement can be reasonably inferred from the commission of the 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 Seleka [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 ADAM, ASSEID, AL-BACHAR and others.⁵⁷⁹ Multiple sources confirm that RAKISS attended security meetings a *Camp de Roux* with Seleka leaders including

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 [REDACTED].

⁵⁷² [REDACTED].

⁵⁷³ [REDACTED].

⁵⁷⁴ [REDACTED].

⁵⁷⁵ [REDACTED].

⁵⁷⁶ [REDACTED].

⁵⁷⁷ [REDACTED].

⁵⁷⁸ [REDACTED].

⁵⁷⁹ [REDACTED].

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
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

⁵⁸⁰ [REDACTED].

⁵⁸¹ [REDACTED].

⁵⁸² [REDACTED].

⁵⁸³ [REDACTED].

⁵⁸⁴ [REDACTED].

⁵⁸⁵ See *supra*, para. 114.

⁵⁸⁶ [REDACTED].

⁵⁸⁷ [REDACTED].

⁵⁸⁸ [REDACTED].

⁵⁸⁹ [REDACTED].

⁵⁹⁰ [REDACTED].

⁵⁹¹ [REDACTED].

⁵⁹² [REDACTED].

⁵⁹³ [REDACTED].

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 insider witnesses: [REDACTED]. In addition, some victims provide direct evidence of his involvement in crimes as well as documentation in support of his role of authority at OCB.

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

210. The evidence shows that **SAID** coordinated on arrests and detention with ADAM, TAHIR, DAMBOUCHA, and YAYA on a regular basis according to insider witnesses. In addition, the evidence shows that **SAID** arrested detainees together with SALLET, RAKISS and AL-BACHAR 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 Roux*, for example regarding the men detained [REDACTED] and the persons brought in after [REDACTED].⁵⁹⁵

212. Arrests and searches in Bangui were stepped up when **SAID** arrived at OCB. 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 OCB, 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 OCB, 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

⁵⁹⁴ [REDACTED].

⁵⁹⁵ [REDACTED].

⁵⁹⁶ [REDACTED].

⁵⁹⁷ [REDACTED].

⁵⁹⁸ [REDACTED].

⁵⁹⁹ [REDACTED].

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 [REDACTED].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

216. The evidence shows that **SAID** controlled access to the basement which was situated under his personal office in the main building of OCRB and was known as the "hole".⁶⁰⁶ According to P-2105, **SAID** was the one who started using the basement after he arrived at OCRB.⁶⁰⁷

217. During the relevant time period, **SAID** was in charge at OCRB and controlled access to the basement-prisoners under his office in the OCRB building.⁶⁰⁸ [REDACTED].⁶⁰⁹ P-2563 states that **SAID** controlled all the prisoners. [REDACTED], the prisoners detained in the basement under his office were also under **SAID's** control.⁶¹⁰

ii. Instructing OCRB-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 OCRB would tie detainees in the *arbatachar* manner, stating that this was the best way to achieve confessions.⁶¹¹

⁶⁰⁰ [REDACTED].

⁶⁰¹ [REDACTED].

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

⁶⁰³ [REDACTED].

⁶⁰⁴ [REDACTED].

⁶⁰⁵ [REDACTED].

⁶⁰⁶ See *supra*, paras. 163-164.

⁶⁰⁷ [REDACTED].

⁶⁰⁸ [REDACTED].

⁶⁰⁹ [REDACTED].

⁶¹⁰ [REDACTED].

⁶¹¹ [REDACTED].

219. In addition, **SAID**, SALLET, TAHIR, and DAMBOUCHA all ordered the OCRB-Seleka elements to beat detainees, including by splashing water on them and whipping them afterwards, which was also the method applied to the detainees [REDACTED].⁶¹²
220. **SAID**'s deputy YAYA tied [REDACTED] and interrogated him.⁶¹³
221. P-1737 states "everyone was aware that it was happening including Colonel **SAID** and General Nouredine [ADAM]."⁶¹⁴

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 [REDACTED]. [REDACTED].⁶²²

⁶¹² Paragraph 33.i of the DCC; [REDACTED].

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

⁶¹⁴ [REDACTED].

⁶¹⁵ [REDACTED].

⁶¹⁶ [REDACTED].

⁶¹⁷ [REDACTED].

⁶¹⁸ [REDACTED].

⁶¹⁹ [REDACTED].

⁶²⁰ [REDACTED].

⁶²¹ [REDACTED].

⁶²² [REDACTED].

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 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

⁶²³ [REDACTED].

⁶²⁴ [REDACTED].

⁶²⁵ [REDACTED].

⁶²⁶ [REDACTED].

⁶²⁷ [REDACTED].

⁶²⁸ [REDACTED].

⁶²⁹ [REDACTED].

⁶³⁰ [REDACTED].

⁶³¹ [REDACTED].

⁶³² [REDACTED].

⁶³³ [REDACTED].

⁶³⁴ [REDACTED].

⁶³⁵ [REDACTED].

⁶³⁶ [REDACTED].

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 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. [REDACTED], **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

⁶³⁷ [REDACTED].

⁶³⁸ [REDACTED].

⁶³⁹ [REDACTED].

⁶⁴⁰ [REDACTED].

⁶⁴¹ [REDACTED].

⁶⁴² [REDACTED].

⁶⁴³ [REDACTED].

⁶⁴⁴ [REDACTED].

⁶⁴⁵ [REDACTED].

⁶⁴⁶ [REDACTED].

⁶⁴⁷ [REDACTED].

⁶⁴⁸ [REDACTED].

⁶⁴⁹ [REDACTED].

⁶⁵⁰ [REDACTED].

⁶⁵¹ [REDACTED].

⁶⁵² [REDACTED].

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 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 **SAID**⁶⁵⁸ 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

⁶⁵³ [REDACTED].

⁶⁵⁴ [REDACTED].

⁶⁵⁵ [REDACTED].

⁶⁵⁶ [REDACTED].

⁶⁵⁷ [REDACTED].

⁶⁵⁸ [REDACTED].

⁶⁵⁹ [REDACTED].

⁶⁶⁰ [REDACTED].

⁶⁶¹ [REDACTED].

⁶⁶² [REDACTED].

⁶⁶³ [REDACTED].

⁶⁶⁴ [REDACTED].

⁶⁶⁵ [REDACTED].

**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 insider 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 [REDACTED].

⁶⁶⁷ See *supra*, para. 222.

⁶⁶⁸ See *supra*, para. 94-106.

⁶⁶⁹ [REDACTED].

⁶⁷⁰ [REDACTED].

⁶⁷¹ [REDACTED].

⁶⁷² [REDACTED].

⁶⁷³ [REDACTED].

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
245. The evidence — especially the accounts provided by the insider witnesses interviewed as well as some of the victims detained — shows that **SAID** meant to engage in this

⁶⁷⁴ [REDACTED].

⁶⁷⁵ [REDACTED].

⁶⁷⁶ [REDACTED].

⁶⁷⁷ [REDACTED].

⁶⁷⁸ See *supra*, para. 147.

⁶⁷⁹ [REDACTED]. See *supra*, paras. 163-164.

⁶⁸⁰ [REDACTED].

⁶⁸¹ [REDACTED].

⁶⁸² [REDACTED].

⁶⁸³ [REDACTED].

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 [REDACTED].

⁶⁸⁵ [REDACTED].

⁶⁸⁶ [REDACTED].

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 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.

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

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.

⁶⁹² *Mbarushimana* Arrest Warrant Decision, para. 39.

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 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

⁶⁹³ [REDACTED].

⁶⁹⁴ [REDACTED].

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) [REDACTED]

258. [REDACTED].⁶⁹⁷

b) [REDACTED]

259. [REDACTED].⁶⁹⁸

c) [REDACTED]

260. [REDACTED].⁶⁹⁹

d) [REDACTED]

261. [REDACTED].⁷⁰⁰ [REDACTED].⁷⁰¹

e) [REDACTED]

262. [REDACTED].⁷⁰² [REDACTED].⁷⁰³ [REDACTED].⁷⁰⁴ [REDACTED].⁷⁰⁵

f) [REDACTED]

263. [REDACTED].⁷⁰⁶ [REDACTED].⁷⁰⁷ [REDACTED].⁷⁰⁸

⁶⁹⁵ [REDACTED].

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 [REDACTED].

⁶⁹⁸ [REDACTED].

⁶⁹⁹ [REDACTED].

⁷⁰⁰ [REDACTED].

⁷⁰¹ [REDACTED].

⁷⁰² [REDACTED].

⁷⁰³ [REDACTED].

⁷⁰⁴ See *infra*, paras. 331-332.

⁷⁰⁵ [REDACTED].

⁷⁰⁶ [REDACTED].

⁷⁰⁷ [REDACTED].

⁷⁰⁸ [REDACTED].

g) [REDACTED]

264. [REDACTED].⁷⁰⁹ [REDACTED].⁷¹⁰

h) [REDACTED]

265. [REDACTED].⁷¹¹ [REDACTED].⁷¹²

i) [REDACTED]

266. [REDACTED].⁷¹³ [REDACTED].⁷¹⁴

j) [REDACTED]

267. [REDACTED].⁷¹⁵ [REDACTED].⁷¹⁶

k) [REDACTED]

268. [REDACTED].⁷¹⁷ [REDACTED].⁷¹⁸

l) [REDACTED]

269. [REDACTED].⁷¹⁹ [REDACTED].⁷²⁰

m) [REDACTED]

270. [REDACTED].⁷²¹ [REDACTED].⁷²²

n) [REDACTED]

271. [REDACTED].⁷²³

⁷⁰⁹ [REDACTED].

⁷¹⁰ [REDACTED].

⁷¹¹ [REDACTED].

⁷¹² [REDACTED].

⁷¹³ [REDACTED].

⁷¹⁴ [REDACTED].

⁷¹⁵ [REDACTED].

⁷¹⁶ [REDACTED].

⁷¹⁷ [REDACTED].

⁷¹⁸ [REDACTED].

⁷¹⁹ [REDACTED].

⁷²⁰ [REDACTED].

⁷²¹ [REDACTED].

⁷²² [REDACTED].

⁷²³ [REDACTED].

o) [REDACTED]

272. [REDACTED].⁷²⁴ [REDACTED].⁷²⁵ [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.

⁷²⁴ [REDACTED].

⁷²⁵ [REDACTED].

⁷²⁶ [REDACTED].

⁷²⁷ [REDACTED].

⁷²⁸ [REDACTED].

⁷²⁹ [REDACTED].

⁷³⁰ [REDACTED].

⁷³¹ [REDACTED].

⁷³² [REDACTED].

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 insider 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 [REDACTED].

⁷³⁶ [REDACTED].

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. [REDACTED].⁷⁴¹ [REDACTED].⁷⁴² [REDACTED].⁷⁴³ [REDACTED].⁷⁴⁴

279. [REDACTED].⁷⁴⁵ [REDACTED].⁷⁴⁶ [REDACTED].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. [REDACTED], the Prosecutor General in charge in Bangui 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

⁷³⁷ [REDACTED].

⁷³⁸ [REDACTED].

⁷³⁹ [REDACTED].

⁷⁴⁰ [REDACTED].

⁷⁴¹ [REDACTED].

⁷⁴² [REDACTED].

⁷⁴³ [REDACTED].

⁷⁴⁴ [REDACTED].

⁷⁴⁵ [REDACTED].

⁷⁴⁶ [REDACTED].

⁷⁴⁷ [REDACTED].

⁷⁴⁸ [REDACTED].

⁷⁴⁹ [REDACTED].

⁷⁵⁰ [REDACTED].

⁷⁵¹ [REDACTED].

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, 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 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

⁷⁵² [REDACTED].

⁷⁵³ [REDACTED].

⁷⁵⁴ [REDACTED].

⁷⁵⁵ [REDACTED].

⁷⁵⁶ [REDACTED].

⁷⁵⁷ [REDACTED].

⁷⁵⁸ [REDACTED].

⁷⁵⁹ [REDACTED].

⁷⁶⁰ [REDACTED].

⁷⁶¹ [REDACTED].

⁷⁶² [REDACTED].

⁷⁶³ [REDACTED].

⁷⁶⁴ [REDACTED].

⁷⁶⁵ [REDACTED].

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 blood flowing from underneath the CEDAD entrance gate and at the back of a Seleka vehicle.⁷⁷² [REDACTED].⁷⁷³ As outlined below, there is evidence that **SAID** brought [REDACTED].⁷⁷⁴ [REDACTED].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.

⁷⁶⁶ [REDACTED].

⁷⁶⁷ [REDACTED].

⁷⁶⁸ [REDACTED].

⁷⁶⁹ [REDACTED].

⁷⁷⁰ [REDACTED].

⁷⁷¹ [REDACTED].

⁷⁷² [REDACTED].

⁷⁷³ [REDACTED].

⁷⁷⁴ See *infra*, paras. 331-333.

⁷⁷⁵ [REDACTED].

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 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. [REDACTED].⁷⁹¹ [REDACTED].⁷⁹²
293. According to P-0853, detainees were beaten with sticks as part of interrogations.⁷⁹³ [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

⁷⁷⁶ [REDACTED].

⁷⁷⁷ [REDACTED].

⁷⁷⁸ [REDACTED].

⁷⁷⁹ [REDACTED].

⁷⁸⁰ [REDACTED].

⁷⁸¹ [REDACTED].

⁷⁸² [REDACTED].

⁷⁸³ [REDACTED].

⁷⁸⁴ [REDACTED].

⁷⁸⁵ [REDACTED].

⁷⁸⁶ [REDACTED].

⁷⁸⁷ [REDACTED].

⁷⁸⁸ [REDACTED].

⁷⁸⁹ [REDACTED].

⁷⁹⁰ [REDACTED].

⁷⁹¹ [REDACTED].

⁷⁹² [REDACTED].

⁷⁹³ [REDACTED].

⁷⁹⁴ [REDACTED].

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 [REDACTED].⁷⁹⁷

299. [REDACTED].⁷⁹⁸ [REDACTED].⁷⁹⁹ [REDACTED].⁸⁰⁰

300. [REDACTED].⁸⁰¹ [REDACTED].⁸⁰² [REDACTED].⁸⁰³ [REDACTED].⁸⁰⁴
[REDACTED].⁸⁰⁵

301. [REDACTED].⁸⁰⁶ [REDACTED].⁸⁰⁷

302. [REDACTED].⁸⁰⁸

⁷⁹⁵ [REDACTED].

⁷⁹⁶ [REDACTED].

⁷⁹⁷ [REDACTED].

⁷⁹⁸ [REDACTED].

⁷⁹⁹ [REDACTED].

⁸⁰⁰ [REDACTED].

⁸⁰¹ [REDACTED].

⁸⁰² [REDACTED].

⁸⁰³ [REDACTED].

⁸⁰⁴ [REDACTED].

⁸⁰⁵ [REDACTED].

⁸⁰⁶ [REDACTED].

⁸⁰⁷ [REDACTED].

⁸⁰⁸ [REDACTED].

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) 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

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 [REDACTED].

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 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 [REDACTED],⁸²⁰ [REDACTED],⁸²¹ [REDACTED],⁸²² [REDACTED],⁸²³ and [REDACTED].⁸²⁴ In the cases of [REDACTED],⁸²⁵ [REDACTED],⁸²⁶ [REDACTED],⁸²⁷ [REDACTED],⁸²⁸ [REDACTED],⁸²⁹ and [REDACTED],⁸³⁰ their relatives all went looking for them, asking the authorities at various locations in Bangui such as police stations and

⁸¹² [REDACTED].

⁸¹³ [REDACTED].

⁸¹⁴ [REDACTED].

⁸¹⁵ [REDACTED].

⁸¹⁶ [REDACTED].

⁸¹⁷ [REDACTED].

⁸¹⁸ [REDACTED].

⁸¹⁹ [REDACTED].

⁸²⁰ [REDACTED].

⁸²¹ [REDACTED].

⁸²² [REDACTED].

⁸²³ [REDACTED].

⁸²⁴ [REDACTED].

⁸²⁵ [REDACTED].

⁸²⁶ [REDACTED].

⁸²⁷ [REDACTED].

⁸²⁸ [REDACTED].

⁸²⁹ [REDACTED].

⁸³⁰ [REDACTED].

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.

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. In the cases of [REDACTED].⁸³⁴ [REDACTED].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 position designed to humiliate and degrade. In addition, the detention conditions, especially herding prisoners into crowded cells and depriving them of adequate

⁸³¹ [REDACTED].

⁸³² [REDACTED].

⁸³³ [REDACTED].

⁸³⁴ [REDACTED].

⁸³⁵ See *supra*, para. 265.

⁸³⁶ [REDACTED].

⁸³⁷ [REDACTED].

⁸³⁸ [REDACTED].

⁸³⁹ See *Katanga & Ngudjolo* Confirmation Decision, para. 367, 369.

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 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

⁸⁴⁰ [REDACTED].

⁸⁴¹ See *supra*, para. 186.

⁸⁴² [REDACTED].

⁸⁴³ See DCC, paras. 33.a, 33.d, 33.f, 33.g, 33.j.

⁸⁴⁴ See also *supra*, paras. 71-74, 78-79.

⁸⁴⁵ [REDACTED].

⁸⁴⁶ [REDACTED].

⁸⁴⁷ [REDACTED].

interrogations. [REDACTED].⁸⁴⁸ [REDACTED].⁸⁴⁹ [REDACTED].⁸⁵⁰
[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.

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:

⁸⁴⁸ [REDACTED].

⁸⁴⁹ [REDACTED].

⁸⁵⁰ [REDACTED].

⁸⁵¹ [REDACTED].

⁸⁵² *Bemba et al.* AJ, para. 1328-1329; *Bemba et al.* TJ, para. 84.

⁸⁵³ *Bemba et al.* AJ, para. 1327.

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 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

⁸⁵⁴ [REDACTED].

⁸⁵⁵ [REDACTED].

⁸⁵⁶ [REDACTED].

⁸⁵⁷ [REDACTED].

⁸⁵⁸ [REDACTED].

⁸⁵⁹ [REDACTED].

⁸⁶⁰ [REDACTED].

⁸⁶¹ [REDACTED].

⁸⁶² [REDACTED].

⁸⁶³ [REDACTED].

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.
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

⁸⁶⁴ [REDACTED].

⁸⁶⁵ [REDACTED].

⁸⁶⁶ [REDACTED].

⁸⁶⁷ [REDACTED].

⁸⁶⁸ [REDACTED].

⁸⁶⁹ [REDACTED].

⁸⁷⁰ [REDACTED].

⁸⁷¹ [REDACTED].

⁸⁷² [REDACTED].

⁸⁷³ [REDACTED].

⁸⁷⁴ [REDACTED].

⁸⁷⁵ [REDACTED].

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. [REDACTED].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 was detained and interrogated.⁸⁸⁰ P-1004 was ordered by **SAID** to participate in this arrest operation.⁸⁸¹ [REDACTED].⁸⁸² [REDACTED].⁸⁸³

332. [REDACTED].⁸⁸⁴ [REDACTED].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

⁸⁷⁶ [REDACTED].

⁸⁷⁷ [REDACTED].

⁸⁷⁸ See para. 64 of the DCC.

⁸⁷⁹ [REDACTED].

⁸⁸⁰ [REDACTED].

⁸⁸¹ [REDACTED].

⁸⁸² [REDACTED].

⁸⁸³ [REDACTED].

⁸⁸⁴ [REDACTED].

⁸⁸⁵ [REDACTED].

⁸⁸⁶ [REDACTED].

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. [REDACTED].⁸⁸⁷ [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 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

⁸⁸⁷ [REDACTED].

⁸⁸⁸ [REDACTED].

⁸⁸⁹ [REDACTED].

⁸⁹⁰ [REDACTED].

⁸⁹¹ [REDACTED].

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.

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.

⁸⁹² [REDACTED].

⁸⁹³ [REDACTED].

⁸⁹⁴ See *supra*, paras. 315-318.

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].
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.

A handwritten signature in blue ink, consisting of a stylized 'K' followed by a horizontal line and a dot.

Karim A. A. Khan QC, Prosecutor

Dated this 21st day of September 2021
At the Hague, The Netherlands