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TRIAL CHAMBER VI

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

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

**Public
with Confidential Annex A**

**Public Redacted Version of “Prosecution’s fourth request to introduce prior
recorded testimony pursuant to rule 68(3)”, ICC-01/14-01/21-357, dated 12 June 2022**

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I. INTRODUCTION

1. The Prosecution hereby requests that Trial Chamber VI (“Chamber”) introduce into evidence the statements and associated material (“Prior Recorded Testimonies”) of seven [REDACTED] witnesses with OCRB-related information—P-0435, P-0787, P-1737, P-2161, P-2240, P-2478, and P-2504¹—pursuant to rule 68(3) of the Rules of Procedure and Evidence (“Request”).²

2. The Prior Recorded Testimonies of the Seven Witnesses are relevant, reliable, probative, and corroborated by other evidence. Granting the Request will enhance the expeditiousness of the proceedings by reducing the estimated length of the Seven Witnesses’ direct examination from 56 hours to 8 hours, thus saving at least 48 hours of court time. Moreover, it would not prejudice the Defence, as the witnesses will be fully available for cross-examination and any further questioning by the Chamber.

3. Should the Chamber grant the Request, the Prosecution further requests leave to conduct a streamlined supplementary examination of each witness to clarify certain points and elaborate on specific issues highly relevant to this case.

II. CONFIDENTIALITY

4. Pursuant to regulation 23*bis*(1) of the Regulations of the Court, the Request and its Annex are filed as confidential because they contain information that may identify Prosecution witnesses and refer to confidential items of evidence. A public redacted version will be filed as soon as practicable.

¹ Hereinafter, “Seven Witnesses.”

² Annex A (A1 to A7) lists the prior recorded testimonies of P-0435, P-0787, P-1737, P-2161, P-2240, P-2478, and P-2504, which comprise their witness statements (at I) and associated material (at II). Where items are necessary to understand a particular witness’s prior recorded testimony, but the Prosecution does not seek to introduce those items into evidence, those items are also referenced (at III). These materials are all hyperlinked. See Directions on the conduct of the proceedings, ICC-01/14-01/21-251, para. 38(i)-(ii).

III. APPLICABLE LAW

5. The Prosecution relies on its previous submissions on the legal framework for introduction of prior recorded testimony pursuant to rule 68(3), as set out in its first application under rule 68(3).³

IV. SUBMISSIONS

A. The Prior Recorded Testimonies should be conditionally introduced into evidence pursuant to rule 68(3)

6. The Prior Recorded Testimonies should be introduced into evidence pursuant to rule 68(3), subject to the fulfilment of the further conditions of rule 68(3) of the Rules. They are relevant, reliable, probative, and corroborative of other evidence.

7. All the Prior Recorded Testimonies relate to [REDACTED] evidence during the Seleka regime. Six⁴ of the Seven Witnesses relate to the OCRB and provide linkage evidence of Mahamat Said Abdel Kani (“Mr SAID”) and his essential contribution to the crimes committed at the OCRB, including: (i) his role, authority and awareness of his position at the OCRB; (ii) his continuous presence at the OCRB; (iii) his ordering on detention of prisoners; (iv) his ordering to the OCRB Seleka members to mistreat detainees; (v) his awareness and inducement on the commission of crimes; and (vi) his influence over the OCRB Seleka. Two witness also relate to incidents charged in the Decision on the Confirmation of Charges (“Confirmation Decision”),⁵ such as the arrest and detention of the FACA soldier [REDACTED],⁶ the detention of the young [REDACTED], and the detention of P-1289.⁷ Also, one witness relates to the workings

³ Prosecution’s first request to introduce prior recorded testimony pursuant to rule 68(3), ICC-01/04-01/21-322-Conf, 20 May 2022, paras. 5-12.

⁴ [REDACTED].

⁵ Confirmation decision, ICC/01/14-01/21-218-Conf.

⁶ [REDACTED].

⁷ [REDACTED].

of the [REDACTED] and its overall process related to correspondence.⁸ Additionally, several witnesses provide information related to the contextual elements of crimes against humanity.⁹

8. Key aspects of each witness's evidence are further highlighted below.

(i) P-0435

9. P-0435 is [REDACTED].¹⁰ [REDACTED] describes the structure of the Ministry of Public Security [REDACTED].¹¹ [REDACTED].¹² [REDACTED].¹³ [REDACTED].¹⁴

10. [REDACTED].¹⁵ [REDACTED].¹⁶ [REDACTED].¹⁷ [REDACTED].¹⁸ [REDACTED].¹⁹ The witness also demonstrated [REDACTED].²⁰

11. [REDACTED]. [REDACTED].²¹

12. P-0425 also describes ADAM's role and activities within the Seleka regime.²² [REDACTED] ADAM ceased his functions as Minister²³ and when he was appointed as the head of the CEDAD.²⁴

⁸ P-0435.

⁹ P-2240; P-0435.

¹⁰ P-0435: CAR-OTP-2017-0036 at 0040, paras. 18-19.

¹¹ P-0435: CAR-OTP-2017-0036 at 0040-0042, paras. 21-32.

¹² P-0435: CAR-OTP-2017-0036 at 0043-0044, paras. 41-42; 45-46.

¹³ P-0435: CAR-OTP-2017-0036 at 0044-0045, paras. 45-53; at 0046, para. 56.

¹⁴ P-0435: CAR-OTP-2017-0036 at 0047, paras. 65-67.

¹⁵ P-0435: CAR-OTP-2017-0036 at 0048-0049, paras. 73-78.

¹⁶ P-0435: CAR-OTP-2017-0036 at 0049, para. 80.

¹⁷ P-0435: CAR-OTP-2017-0036 at 0049-0050, paras. 81-88; at 0052-0055, paras. 103-105.

¹⁸ P-0435: CAR-OTP-2017-0036 at 0049, para. 79.

¹⁹ P-0435: CAR-OTP-2136-0576 at 0579, paras. 17-21.

²⁰ P-0435: CAR-OTP-2136-0576 at 0579-0586.

²¹ P-0435: CAR-OTP-2017-0036 at 0070, paras. 207-208.

²² P-0435: CAR-OTP-2017-0036 at 0055-0059, paras. 106-137.

²³ P-0435: CAR-OTP-2017-0036 at 0062, paras. 153-157.

²⁴ P-0435: CAR-OTP-2017-0036 at 0064-0066, paras. 167-180.

13. Moreover, P-0435 states that during the period of the Seleka, there was violence in Boy Rabe,²⁵ [REDACTED] as being the stronghold of BOZIZE's supporters, as many of the people who lived there were Gbaya, the same ethnic group as him.²⁶ [REDACTED] the search operations conducted in Boy Rabe by the Seleka²⁷ were supposed to be looking for military men but instead resulted in looting and killing people.²⁸ Also, on one occasion in April 2013, P-0435 heard about a specific event at Boy Rabe which occurred behind the *Boganda Lycée* where the Seleka were going into houses in order to kill young men. [REDACTED].²⁹

14. P-0435's prior recorded testimony and associated material consists of two written statements, 13 annexes, and ten documents [REDACTED].³⁰

(ii) P-0787

15. P-0787 is [REDACTED].³¹ P-0787 states that the Seleka set up a parallel structure within the OCRB and were in charge.³² The most senior Seleka at the OCRB was Mr SAID who had no office but had moved a desk under the tree and used that as an office.³³ He states that it was Mr SAID who dictated what the career police officers investigated and what they passed to the Prosecutor, and that they were forced to comply with those instructions.³⁴ These parallel structures were used by the Seleka throughout the police and security services.³⁵

²⁵ **P-0435**: CAR-OTP-2017-0036 at 0060-0061, paras. 138-148.

²⁶ **P-0435**: CAR-OTP-2017-0036 at 0060, paras. 138.

²⁷ **P-0435**: CAR-OTP-2017-0036 at 0060, paras. 140, 143.

²⁸ **P-0435**: CAR-OTP-2017-0036 at 0060, para. 142, 144, at 0061, para. 146.

²⁹ **P-0435**: CAR-OTP-2017-0036 at 0061, para. 147.

³⁰ See Annex A (A1) for complete list.

³¹ **P-0787**, CAR-OTP-2036-0410 at 0418, para. 39.

³² **P-0787**, CAR-OTP-2036-0410 at 0418, para. 41.

³³ **P-0787**, CAR-OTP-2036-0410 at 0418, para. 41.

³⁴ **P-0787**, CAR-OTP-2036-0410 at 0418, para. 41.

³⁵ **P-0787**, CAR-OTP-2036-0410 at 0418, para. 42.

16. P-0787 describes the OCRB compound and states that it was divided between the police officers and the Seleka.³⁶ [REDACTED].³⁷ The cells G4, G5 and G6 were used by the Seleka, and no paperwork was introduced in relation to the detainees in those cells. These cells were strictly off limits, [REDACTED].³⁸ P-0787 states that the Seleka also used to detain people in a small office at the end of the office block, nearest Mr SAID. Underneath this office was a hole where people were also detained.³⁹ The Seleka covered the mouth of the hole with some boards and placed a desk on top of the boards.⁴⁰ The witness also describes the mistreatment that the Seleka would use against prisoners, including beatings with metal wires.⁴¹ Mr SAID and another Seleka, TAHIR, would often be present when the beatings were going on, and it happened under their instructions.⁴²

17. The witness describes the visits made to the OCRB. These included visits of Nouradine ADAM⁴³ and Adoum RAKISS⁴⁴ who would, on the occasions they visited, bring prisoners to the compound. P-0787 also describes a visit by the French military who, on one occasion, interviewed two prisoners; one of them could not use his arms and the other one had an ear infection because the Seleka pulled his ears with pliers and ripped them partially from his head.⁴⁵

18. [REDACTED].⁴⁶ [REDACTED].⁴⁷ Also, P-0787 talks about both Boy Rabe operations in 2013.⁴⁸

³⁶ P-0787, CAR-OTP-2036-0410 at 0422, para. 57.

³⁷ P-0787, CAR-OTP-2036-0410 at 0422, para. 57.

³⁸ P-0787, CAR-OTP-2036-0410 at 0422, para. 57.

³⁹ P-0787, CAR-OTP-2036-0410 at 0423, paras. 58-60.

⁴⁰ P-0787, CAR-OTP-2036-0410 at 0423, para. 59.

⁴¹ P-0787, CAR-OTP-2036-0410 at 0431, paras. 97-99.

⁴² P-0787, CAR-OTP-2036-0410 at 0431, para. 98.

⁴³ P-0787, CAR-OTP-2036-0410 at 0422, paras. 55-56.

⁴⁴ P-0787, CAR-OTP-2036-0410 at 0424, para. 66.

⁴⁵ P-0787, CAR-OTP-2036-0410 at 0423-0424, paras. 61-65.

⁴⁶ P-0787, CAR-OTP-2036-0410 at 0427, paras. 79-83.

⁴⁷ P-0787, CAR-OTP-2036-0410 at 0428, paras. 84-87.

⁴⁸ P-0787, CAR-OTP-2036-0410 at 0416-0417, paras. 30-38; at 0422, para. 55; at 0426, para. 78.

19. P-0787's prior recorded testimony consists of one statement and three annexes.⁴⁹

(iii) P-1737

20. P-1737 is a [REDACTED].⁵⁰ He received his training at [REDACTED] and was recruited [REDACTED]⁵¹ [REDACTED].⁵²

21. P-1737 provides details of the structure and functioning of the OCB, command structure, number and identification of Seleka militiamen, weapons, vehicles, uniforms, as well as the detention and mistreatment of prisoners.⁵³ P-1737 also provides details on the OCB compound, including its location and layout⁵⁴ and states that behind Mr SAID's office there was an underground room that was used as a cell.⁵⁵

22. P-1737 states that Nouradine ADAM was in charge of the OCB as it fell under his ministry's mandate. [REDACTED],⁵⁶ [REDACTED].⁵⁷ [REDACTED].⁵⁸

23. [REDACTED],⁵⁹ [REDACTED].⁶⁰

24. P-1737 states that the Seleka at the OCB would whip detainees with the *Tonfa* police batons after they were ordered to lie on the ground face down. He explains that torture was used to make people confess, and everyone was aware of it including Mr

⁴⁹ See Annex A (A2) for complete list.

⁵⁰ **P-1737**, CAR-OTP-2055-0137 at 0139-0140, paras. 12-18.

⁵¹ **P-1737**, CAR-OTP-2055-0137 at 0140, para. 20.

⁵² **P-1737**, CAR-OTP-2055-0137 at 0150, para. 69.

⁵³ **P-1737**, CAR-OTP-2055-0137 at 0141-0145, paras. 24-43; at 0146-0147, paras. 51-56; at 0148, para. 58-60.

⁵⁴ **P-1737**, CAR-OTP-2055-0137 at 0143-0144, paras. 35-38.

⁵⁵ **P-1737**, CAR-OTP-2055-0137 at 0144, paras. 38.

⁵⁶ **P-1737**, CAR-OTP-2055-0137 at 0145, paras. 44-47.

⁵⁷ **P-1737**, CAR-OTP-2055-0137 at 0148, para. 60.

⁵⁸ **P-1737**, CAR-OTP-2055-0137 at 0146, para. 49.

⁵⁹ **P-1737**, CAR-OTP-2055-0137 at 0146, para. 50.

⁶⁰ **P-1737**, CAR-OTP-2055-0137 at 0147, para. 54, at 0148, para. 58.

SAID and ADAM.⁶¹ The torture would be carried out by tying someone in the *arbatachar* technique.⁶² [REDACTED].⁶³ [REDACTED].⁶⁴

25. P-1737's prior recorded testimony and associated material consists of a written statement, annexes to the statement, and various items including photographs that were shown to the witness during his interview and about which he commented ⁶⁵

(iv) P-2161

26. P-2161 is a former Seleka member [REDACTED].⁶⁶ P-2161 provides details on the arrival of the Seleka in Bangui on 24 March 2013 and their installation, weapons, uniforms and organisational structure in Camp BEAL and Camp BSS.⁶⁷ [REDACTED]⁶⁸ [REDACTED]⁶⁹ [REDACTED].⁷⁰ [REDACTED].⁷¹

27. P-2161 explains that on one occasion, Mr SAID came [REDACTED] and informed the Seleka that he was going to recruit around 50 men to join [REDACTED].⁷² [REDACTED]⁷³ [REDACTED]⁷⁴ [REDACTED].⁷⁵

⁶¹ P-1737, CAR-OTP-2055-0137 at 0147, para. 54.

⁶² P-1737, CAR-OTP-2055-0137 at 0147, para. 55.

⁶³ P-1737, CAR-OTP-2055-0137 at 0148, para. 58-59. [REDACTED].

⁶⁴ P-1737, CAR-OTP-2055-0137 at 0149, paras. 64-67. [REDACTED].

⁶⁵ See Annex A (A3) for complete list.

⁶⁶ P-2161: CAR-OTP-2100-2673 at 2675-2676, paras. 14-15.

⁶⁷ P-2161: CAR-OTP-2100-2673 at 2675-2678, paras. 13-30.

⁶⁸ P-2161: CAR-OTP-2100-2673 at 2676, para. 15.

⁶⁹ P-2161: CAR-OTP-2100-2673 at 2679, paras. 38.

⁷⁰ P-2161: CAR-OTP-2100-2673 at 2678-2679, paras. 31.

⁷¹ P-2161: CAR-OTP-2100-2673 at 2680, paras. 39-40.

⁷² P-2161: CAR-OTP-2100-2673 at 2680-2681, para. 43.

⁷³ P-2161: CAR-OTP-2100-2673 at 2680-2681, para. 43.

⁷⁴ P-2161: CAR-OTP-2100-2673 at 2682-2683, para. 55.

⁷⁵ P-2161: CAR-OTP-2100-2673 at 2681, para. 45; at 2683, para. 59.

28. The witness describes the OCRB's location, layout, command structure, number of Seleka and police officers deployed, and weapons.⁷⁶ [REDACTED].⁷⁷ [REDACTED].⁷⁸ [REDACTED].⁷⁹

29. [REDACTED].⁸⁰ [REDACTED].⁸¹

30. P-2161's prior recorded testimony and associated material consists of a statement, one annex, and 14 documents he commented on, provided to the Prosecution, and, for most, authored.⁸²

(v) P-2240

31. P-2240 is [REDACTED].⁸³ In his statement, he describes the Seleka structure and authority.⁸⁴ [REDACTED]⁸⁵

32. P-2240 also describes the OCRB. [REDACTED].⁸⁶ [REDACTED].⁸⁷ [REDACTED].⁸⁸ P-2240 heard that prisoners were transferred to the OCRB from Camp de Roux and from the Camp des *Sapeurs Pompiers*.⁸⁹

33. P-2240 describes the OCRB structure. He states that there was a Seleka colonel called SAID who was based at the OCRB and who was appointed by ADAM to

⁷⁶ **P-2161**: CAR-OTP-2100-2673 at 2681-2685, paras. 45-68.

⁷⁷ **P-2161**: CAR-OTP-2100-2673 at 2682-2683, paras. 50-55.

⁷⁸ **P-2161**: CAR-OTP-2100-2673 at 2683, para. 57; at 2683, para. 60.

⁷⁹ **P-2161**: CAR-OTP-2100-2673 at 2684, para. 62.

⁸⁰ **P-2161**, CAR-OTP-2100-2673 at 2684-2685, paras. 63-68.

⁸¹ **P-2161**, CAR-OTP-2100-2673 at 2685-2686, paras. 71-73.

⁸² See Annex A (A4) for the complete list.

⁸³ **P-2240**, CAR-OTP-2110-0780 at 0786, paras. 22-23.

⁸⁴ **P-2240**, CAR-OTP-2110-0780 at 0786-0788, paras. 23-27.

⁸⁵ **P-2240**, CAR-OTP-2110-0780 at 0787, paras. 23-24.

⁸⁶ **P-2240**, CAR-OTP-2110-0780 at 0788-0789, para. 29.

⁸⁷ **P-2240**, CAR-OTP-2110-0780 at 0788-0789, para. 29; at 0790, para. 33.

⁸⁸ **P-2240**, CAR-OTP-2110-0780 at 0789, para. 30.

⁸⁹ **P-2240**, CAR-OTP-2110-0780 at 0791, paras. 37-38.

manage the OCRB.⁹⁰ SAID was in charge of detention and would report to ADAM in person or over the telephone.⁹¹ He also states that Mr SAID's deputy was "ATAHIR."⁹²

34. P-2240 also describes a disarmament operation in Boy Rabe.⁹³ That day, he heard gunfire since early morning, [REDACTED]. He states that there was a Seleka base by *Lycée Boganda* from where the Seleka had fired rockets at Boy Rabe to gain access to it.⁹⁴ [REDACTED].⁹⁵

35. P-2240 also describes the CEDAD and its structure.⁹⁶ He states that ADAM's Seleka at the CEDAD turned it into a place of detention and torture.⁹⁷ [REDACTED].⁹⁸ [REDACTED].⁹⁹ [REDACTED].¹⁰⁰

36. P-2240's prior recorded testimony consists of one statement.¹⁰¹

(vi) P-2478

37. P-2478 was [REDACTED] details on the structure and hierarchy of the OCRB¹⁰² and explains that the OCRB staff were made up of two groups: (i) the police officers who continued to work under the leadership of Director MALO; and (ii) the Seleka soldiers under the leadership of Mr SAID and TAHIR.¹⁰³ [REDACTED] Mr SAID was

⁹⁰ P-2240, CAR-OTP-2110-0780 at 0789, para. 31.

⁹¹ P-2240, CAR-OTP-2110-0780 at 0789, paras. 31-32 at 0790, para. 34.

⁹² P-2240, CAR-OTP-2110-0780 at 0791, para. 39. The Prosecution believes that the correct spelling of Mr SAID's deputy is "TAHIR."

⁹³ P-2240, CAR-OTP-2110-0780 at 0792, paras. 41-43.

⁹⁴ P-2240, CAR-OTP-2110-0780 at 0792, para. 41.

⁹⁵ P-2240, CAR-OTP-2110-0780 at 0792, paras. 42-43.

⁹⁶ P-2240, CAR-OTP-2110-0780 at 0793-0795, paras. 44-52.

⁹⁷ P-2240, CAR-OTP-2110-0780 at 0793, para. 44.

⁹⁸ P-2240, CAR-OTP-2110-0780 at 0793, para. 44.

⁹⁹ P-2240, CAR-OTP-2110-0780 at 0793, para. 44.

¹⁰⁰ P-2240, CAR-OTP-2110-0780 at 0787-0788, para. 27.

¹⁰¹ See Annex A (A5) for the complete list.

¹⁰² P-2478: CAR-OTP-2110-0745 at 0748-0752, paras. 16-29.

¹⁰³ P-2478: CAR-OTP-2110-0745 at 0748-0749, paras. 16-17.

the director of the OCRB whilst TAHIR was also authorised to give orders to the Seleka.¹⁰⁴ [REDACTED],¹⁰⁵ [REDACTED];¹⁰⁶ [REDACTED].¹⁰⁷ [REDACTED].¹⁰⁸

38. P-2478 states [REDACTED].¹⁰⁹

39. P-2478 provides details on the detention and mistreatment committed at the OCRB by the Seleka. [REDACTED],¹¹⁰ [REDACTED].¹¹¹ On one occasion, P-2478 witnessed Seleka elements beating a prisoner who had his feet and hand tied in front of him with a belt.¹¹² [REDACTED].¹¹³

40. P-2478 states that [REDACTED].¹¹⁴ [REDACTED],¹¹⁵ [REDACTED].¹¹⁶

41. [REDACTED],¹¹⁷ [REDACTED],¹¹⁸ [REDACTED].¹¹⁹ [REDACTED]¹²⁰ ADAM,¹²¹ and TIANGAYE.¹²² [REDACTED].¹²³

42. P-2478's prior recorded testimony and associated material consists of one statement, two annexes, and 21 photographs [REDACTED].¹²⁴

¹⁰⁴ **P-2478:** CAR-OTP-2110-0745 at 0748, para. 16.

¹⁰⁵ **P-2478:** CAR-OTP-2110-0745 at 0749, para. 18.

¹⁰⁶ **P-2478:** CAR-OTP-2110-0745 at 0751, para. 26.

¹⁰⁷ **P-2478:** CAR-OTP-2110-0745 at 0753, para. 35.

¹⁰⁸ **P-2478:** CAR-OTP-2110-0745 at 0749, para. 19.

¹⁰⁹ **P-2478:** CAR-OTP-2110-0745 at 0750, para. 21.

¹¹⁰ **P-2478:** CAR-OTP-2110-0745 at 0752, para. 29.

¹¹¹ **P-2478:** CAR-OTP-2110-0745 at 0757, para. 50.

¹¹² **P-2478:** CAR-OTP-2110-0745 at 0753-0754, paras. 36-37.

¹¹³ **P-2478:** CAR-OTP-2110-0745 at 0755-0756, para. 44.

¹¹⁴ **P-2478:** CAR-OTP-2110-0745 at 0758-0759, paras. 53-56.

¹¹⁵ **P-2478:** CAR-OTP-2110-0745 at 0758, para. 55.

¹¹⁶ **P-2478:** CAR-OTP-2110-0745 at 0759, para. 57.

¹¹⁷ **P-2478:** CAR-OTP-2110-0745 at 0759, para. 59.

¹¹⁸ **P-2478:** CAR-OTP-2110-0745 at 0755-0756, paras. 42-44, at 0756, paras. 45-47, at 0757, paras. 48, 50.

¹¹⁹ **P-2478:** CAR-OTP-2110-0745 at 0750, para. 21, at 0755-0756, para. 44.

¹²⁰ **P-2478:** CAR-OTP-2110-0745 at 0759-0760, para. 60.

¹²¹ **P-2478:** CAR-OTP-2110-0745 at 0760, para. 61.

¹²² **P-2478:** CAR-OTP-2110-0745 at 0760, para. 62.

¹²³ **P-2478:** CAR-OTP-2110-0745 at 0758, para. 52.

¹²⁴ See Annex A (A6) for the complete list.

(vii) P-2504

43. P-2504 [REDACTED]¹²⁵ [REDACTED].¹²⁶

44. P-2504 provides details on the structure of the OCBR [REDACTED],¹²⁷ its hierarchy,¹²⁸ and its internal organisation.¹²⁹ [REDACTED],¹³⁰ [REDACTED].¹³¹ [REDACTED].¹³²

45. P-2504 also provides details on the OCBR Central, explaining that Colonel Mahamat SAID and his Seleka elements used it as their base and controlled it.¹³³ P-2504 further explains that Mr SAID was the Head of the OCBR Central from around 24 March 2013 until DJOTODIA's resignation,¹³⁴ that the Seleka elements of the OCBR Central were under his command, that they would obey his orders which were usually given verbally, that he was the most important person at the OCBR, that when he entered the OCBR premises, the elements would stand up and salute him, and that they addressed him as "my Colonel".¹³⁵

46. P-2504 also provides details on the arrest of a military man [REDACTED].¹³⁶

47. P-2504's prior recorded testimony and associated material consists of one statement, six annexes, and 13 photographs he commented on in his written statement.¹³⁷

¹²⁵ **P-2504**, CAR-OTP-2111-0177 at 0180-0181, paras. 21-23.

¹²⁶ **P-2504**, CAR-OTP-2111-0177 at 0181, para. 25.

¹²⁷ **P-2504**, CAR-OTP-2111-0177 at 0181, paras. 24-25, at 0182-0183, paras. 29-35.

¹²⁸ **P-2504**, CAR-OTP-2111-0177 at 0181, paras. 24-25.

¹²⁹ **P-2504**, CAR-OTP-2111-0177 at 0181, paras. 26-27.

¹³⁰ **P-2504**, CAR-OTP-2111-0177 at 0181, para. 27.

¹³¹ **P-2504**, CAR-OTP-2111-0177 at 0182, para. 31.

¹³² **P-2504**, CAR-OTP-2111-0177 at 0182, para. 31.

¹³³ **P-2504**, CAR-OTP-2111-0177 at 0183, para. 38.

¹³⁴ **P-2504**, CAR-OTP-2111-0177 at 0183, para. 38.

¹³⁵ **P-2504**, CAR-OTP-2111-0177 at 0184, para. 42.

¹³⁶ **P-2504**, CAR-OTP-2111-0177 at 0185-0186, paras. 48-53. [REDACTED]

¹³⁷ See Annex A (A7) for the complete list.

(viii) Granting the Request Would Advance the Expeditionness of the Proceedings

48. The Prosecution estimates that a full direct examination for each witness would require approximately 8 hours of court time. If the Request is granted, the Prosecution seeks only 2 hours for its supplementary examination of P-2240, and 1 hour for a supplementary examination of the other six witnesses. Thus, if the Request is granted for all seven witnesses, the Prosecution estimates a savings of at least 48 hours of court time.

(ix) The Prior Recorded Testimonies Bear Sufficient Indicia of Reliability for Introduction into Evidence

49. The Prior Recorded Testimonies have sufficient indicia of reliability for introduction into evidence. The Seven Witnesses have signed their statements, attesting that their testimony was read back to them, was given voluntarily, and that their contents were true to the best of their recollection of the events.¹³⁸ Where an interpreter was used, the witnesses confirmed that they read over the statement with the interpreter and confirmed its accuracy.¹³⁹ Their statements also bear the signature of an interpreter, certifying that each witness appeared to have heard and understood the translation.¹⁴⁰

¹³⁸ **P-0435**, CAR-OTP-2017-0036 at 0073; CAR-OTP-2136-0576 at 0587; **P-0787**, CAR-OTP-2036-0410 at 0437; **P-1737**, CAR-OTP-2055-0137 at 0155; **P-2161**, CAR-OTP-2100-2673 at 2691-2692; **P-2240**, CAR-OTP-2110-0780 at 0796; **P-2478**, CAR-OTP-2110-0745 at 0767; **P-2504**, CAR-OTP-2111-0177 at 0192.

¹³⁹ **P-0435**, CAR-OTP-2017-0036 at 0073; CAR-OTP-2136-0576 at 0587; **P-0787**, CAR-OTP-2036-0410 at 0437; **P-1737**, CAR-OTP-2055-0137 at 0155; **P-2161**, CAR-OTP-2100-2673 at 2691-2692; **P-2240**, CAR-OTP-2110-0780 at 0797; **P-2478**, CAR-OTP-2110-0745 at 0767; **P-2504**, CAR-OTP-2111-0177 at 0192.

¹⁴⁰ **P-0435**, CAR-OTP-2017-0036 at 0074; CAR-OTP-2136-0576 at 0588; **P-0787**, CAR-OTP-2036-0410 at 0438; **P-1737**, CAR-OTP-2055-0137 at 0156; **P-2161**, CAR-OTP-2100-2673 at 2693; **P-2240**, CAR-OTP-2110-0780 at 0797; **P-2478**, CAR-OTP-2110-0745 at 0768; **P-2504**, CAR-OTP-2111-0177 at 0193.

(x) Introduction of the Prior Recorded Testimonies is Not Prejudicial To or Inconsistent with the Rights of the Accused

50. The introduction of the Prior Recorded Testimonies into evidence would not be prejudicial to or inconsistent with the rights of the Accused. The Defence will have ample opportunity to cross-examine the witnesses.

51. Furthermore, the evidence of the Seven Witnesses is cumulative to and corroborative of other evidence. The Seven Witnesses all corroborate each other to a certain extent. Furthermore, their evidence is corroborated by and cumulative to the evidence of other witnesses whom the Prosecution proposes to call *viva voce* — namely the [REDACTED] P-1167, P-2105, and P-2563; [REDACTED] such as P-0338; and OCRB victims including P-0547, P-1743, and P-3056.

D. The Prosecution should be allowed to conduct a focused supplementary examination of the Seven Witnesses

52. If the Request is granted, the Prosecution requests permission to conduct a limited supplementary examination of the Seven Witnesses. In this regard, the Prosecution seeks 2 hours for P-2240 and one hour for the other six witnesses. The Prosecution will endeavour to keep the supplementary examinations as focused and efficient as possible and use less time where at all possible.

53. The Prosecution requests an additional hour for P-2240 because it believes this witness may be able to elaborate on his knowledge of the events in Boy Rabe in 2013, particularly in relation to [REDACTED]. Such evidence would be highly relevant to the chapeau elements of the war crimes and crimes against humanity charges.

E. RELIEF SOUGHT

54. For the above reasons, the Prosecution requests that the Chamber:

- (a) Introduce into evidence the Prior Recorded Testimonies, as set out in Annex A to this filing, subject to the fulfilment of the further conditions of rule 68(3); and
- (b) Grant leave for the Prosecution to conduct a limited supplementary examination of no more than 2 hours for P-2240 and no more than one hour for P-0435, P-0787, P-1737, P-2161, P-2478 and P-2504.



Karim A. A. Khan QC, Prosecutor

Dated this 20th day of June 2022
At The Hague, The Netherland