

Closing Statements

(Open Session)

ICC-01/14-01/21

1 International Criminal Court
2 Trial Chamber VI
3 Situation: Central African Republic II
4 In the case of The Prosecutor v. Mahamat Said Abdel Kani - ICC-01/14-01/21
5 Presiding Judge Miatta Maria Samba, Judge María del Socorro Flores Liera,
6 Judge Sergio Gerardo Ugalde Godínez and Judge Keebong Paek
7 Closing Statements - Courtroom 1
8 Tuesday, 25 November 2025
9 (The hearing starts in open session at 9.34 a.m.)
10 THE COURT USHER: [9:34:28] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE SAMBA: [9:35:04] Good morning, everyone.
14 Madam Court Officer, can you kindly mention the case.
15 THE COURT OFFICER: [9:35:11] Good morning, Madam President, your Honours.
16 The situation in the Central African Republic II, in the case the Prosecutor versus
17 Mahamat Said Abdel Kani, case reference ICC-01/14-01/21.
18 And we are in open session.
19 PRESIDING JUDGE SAMBA: [9:35:30] Thank you very much, Madam
20 Court Officer.
21 Can I ask the parties to introduce themselves, starting with the Prosecution.
22 MR NIANG: [9:35:37](Interpretation) Thank you. Good morning,
23 Madam President, your Honours.
24 The OTP is represented today by myself, the Deputy Prosecutor, Mame Mandiaye
25 Niang. Beside me is the senior trial lawyer, Holo Makwaia. As well with me today,

1 Mr Thomas Bifwoli, Marie-Jeanne Sardachti, Brunhild Le Bailly and Vanessa Grée.

2 With me as well, Sanyu Ndagire and Anusha Rawoah. A number of analysts are
3 with us as well, Alessia Vitiello and Hilary Dyer. Thank you.

4 PRESIDING JUDGE SAMBA: [9:36:48] Thank you very much, Mr Prosecutor.

5 Representatives for the victims, Ms Pellet, can I hear you please.

6 MS PELLET: [9:36:59](Interpretation) Thank you, Madam President. The victims
7 are represented by Gilles Dibert-Bekoy, who's beside me, by Tars Van Litsenborgh,
8 and Adeline Bedoucha, as well as by myself, Sarah Pellet, OPCV.

9 PRESIDING JUDGE SAMBA: [9:37:22] Thank you Ms Pellet.

10 For the Defence, Ms Naouri, please.

11 MS NAOURI: [9:37:30](Interpretation) Thank you, Madam President. Good morning.

12 Beside me, Mr Jacobs, Mr François-Jacquemin. Behind me, Emma Conty, Emma Roux
13 Hoock, Agathe Saint-Girons. * Close by, Fiana Gantheret and Nolwenn Moniquet.

14 And as for myself, I am Jennifer Naouri, lead counsel representing Mr Said.

15 PRESIDING JUDGE SAMBA: [9:38:06] Thank you very much, Ms Naouri.

16 And for the record, I do take note that Mr Said is in court with us. A very good
17 morning to you, Mr Said, I hope I see you well.

18 MR SAID: [9:38:18](Interpretation) Yes. Good morning, Madam President.

19 PRESIDING JUDGE SAMBA: [9:38:25] Good morning.

20 I welcome everyone in and around the courtroom, as well as those following online,
21 in particular those in the Central African Republic to this hearing.

22 Now, over the next few days we will hear the closing statements of parties and
23 participants in this case.

24 As set out in the Fourth Direction on the Conduct of Proceedings and the Scheduling
25 Order for the Closing Statements, we will start with the Prosecution, which has been

1 allotted 90 minutes to respond to any specific points raised in the Defence's closing
2 brief, followed by 60 minutes to summarise its case and make final submissions.

3 We will then hear from the Common Legal Representative of Victims, who has
4 30 minutes for her final submissions. The Chamber will then adjourn for the day
5 and we will hear from the Defence tomorrow.

6 Before I turn to the Prosecution, I have a few housekeeping matters to bring to your
7 attention.

8 Now, the Registry will be monitoring the time and will inform the Chamber when
9 the allotted time is due to end.

10 Furthermore, the Chamber expects the parties and participants' submissions to be in
11 public session. In this regard, the Chamber recalls its directions in relation to
12 the closing briefs in which it allowed the parties and participants to refer to
13 confidential information as long as doing so does not lead to the identification of
14 protected witnesses or otherwise compromise their security.

15 Lastly, I remind everyone of the importance to speak slowly for the interpreters and
16 court reporters.

17 With that, I give the floor to the Prosecution.

18 MR NIANG: [9:40:56](Interpretation) Thank you, Madam President.

19 Madam President, your Honours, in a number of weeks - to be more specific, on
20 28 December - the Central African Republic will be organising an election with a view
21 to choosing new representatives for the Republic's institutions.

22 It is fortunate that as this country, still devastated by the civil war that occurred
23 between 2012 and 2014, is attempting to end this painful chapter in its history, it is
24 fortunate that the International Criminal Court is present. The Court is here and
25 perhaps there has been a postponement or a bit of a lag, but we are not late. I can

1 say that those who lived through this conflict, I can say to them that winning or
2 retaining power cannot justify massacring part of the population, a group of people
3 within the population who are reduced to their ethnic or religious identity and
4 deemed to be an enemy of the people, depending on one's political affiliation. I have
5 spoken of political affiliation and political groups. I'm referring to the Seleka and
6 the Anti-Balaka.

7 Madam President, your Honours, I was here in this very courtroom only two months
8 ago to hear the verdict that was handed down in the Yekatom, Ngaïssona case, two
9 figureheads within the Anti-Balaka group.

10 Today, it is my honour to lead the OTP team that will be presenting our closing
11 submissions regarding a figurehead of the other faction,

12 Mr Mahamat Said Abdel Kani. The charges that we filed against Mr Said relate to
13 unspeakable violence and persecution against people deemed to be pro-Bozizé or
14 perceived as being Bozizé supporters, as well as atrocious crimes perpetrated by
15 the Seleka in 2003, particularly in Bangui, the capital.

16 In our various filings to your Chamber and throughout the course of our submissions,
17 during this trial the Prosecution has adduced solid evidence showing beyond
18 reasonable doubt that the accused person, Mr Mahamat Said Abdel Kani perpetrated,
19 with others, ordered or encouraged seven counts of war crimes and crimes against
20 humanity, the crimes that have led to his appearance before this Court.

21 Madam President, your Honours, my colleague Ms Makwaia, will explain to you
22 exactly how the evidence demonstrates and proves the charges standings in Mr Said's
23 name. My colleague will also respond to a number of specific points found in
24 the Defence's closing brief.

25 Once again, I must stress that this phase of the proceedings, the closing submissions,

1 is a very important part -- a very important stage in the case. We find ourselves
2 closer and closer to the decisive moment, namely the establishment of the judicial
3 truth regarding the very serious crimes that Mr Said has been charged with.
4 More than ever, carrying out prosecution, prosecuting Mr Said and determining who
5 was responsible for the painful events that ripped the Central African Republic apart
6 between 12 April and 30 August 2013. More than ever, this prosecution is necessary.
7 Throughout the course of this trial our office has never changed course. We have
8 done all we could to ensure that justice is served for the victims of the atrocities
9 perpetrated in the situation by all parties to the conflict. If we have made progress in
10 these proceedings, it is thanks to the essential contribution of key stakeholders.
11 In 121 days of hearings, you have heard the accounts of 81 witnesses: 25 appeared
12 here in the courtroom and you heard them viva voce; 33 provided evidence by virtue
13 of the Rule 68(3) mechanism.
14 This was a tremendous amount of work and it could only be done thanks to
15 the participation of everyone, particularly the victims and the affected communities in
16 the Central African Republic. They worked together with us, showing courage and
17 determination. And this with a view to achieving justice.
18 Authorities within the Central African Republic, stakeholders from civil society and
19 other people were all part of this task.
20 Madam President, your Honours, throughout this trial, which began on
21 26 September 2022, and as I said earlier, the Prosecution has presented solid evidence
22 and we have established beyond reasonable doubt that the accused person, * Mr Said,
23 perpetrated, ordered or encouraged the crimes that are set out in the seven counts,
24 five counts of war crimes and crimes against humanity committed by the Seleka
25 faction. Where did the crimes occur? What was the crime scene?

1 The crimes occurred at the OCRB, the Central Office for the Repression of Banditry.
2 It has been determined beyond reasonable doubt that Mr Said was responsible for
3 these serious crimes. He made an essential contribution to a common plan with
4 other high-ranking members of the Seleka coalition. These crimes targeted people
5 who were deemed to be Bozizé supporters, who was arrested, detained and abused at
6 the OCRB. They were subjected to all kinds of mistreatment.
7 You will hear from my colleagues exactly what role was played by the accused,
8 Mr Said. As a high-ranking member of the Seleka coalition, he was the one leading
9 the operations within the OCRB.
10 The Prosecution will hark back to key points that were determined during
11 the testimony from the OTP's witnesses, who were subjected to horrific abuse
12 committed by Mr Said and the Seleka when arrested and when detained at the OCRB.
13 The Prosecution will show written documentation signed by Mr Said himself,
14 documents that show that he had complete control over the victims detained in
15 inhumane conditions at the OCRB.
16 You will hear passages from their testimony that established that he took part directly
17 in the abuse. The victims of these crimes were targeted. And why? They were
18 arrested arbitrarily for reasons of politics, ethnicity, religion or gender.
19 The evidence in this trial demonstrates that the victims of the crimes committed by
20 Mr Said were mostly of the Christian faith, they were male, they belonged to
21 the Gbaya, Mandja or Banda ethnic groups. For the most part, they lived in
22 the neighbourhoods -- in certain neighbourhoods of Bangui such as Boy-Rabe.
23 Your Honours, the events that the Prosecution have described to you occurred as part
24 of a non-international armed conflict that took place in Bangui during intense
25 hostilities between Seleka and the pro-Bozizé forces between late 2012 and

1 10 January 2014 at least.

2 The Prosecution has established that during these hostilities, women, children,
3 the elderly and disabled people fell victim to the horrific acts of abuse and violence
4 committed by the Seleka. Amongst the many victims we find women who had been
5 raped, sometimes in front of their very own children, because they were deemed to
6 be -- or, rather, their husband was deemed to be a Bozizé supporter. Young children,
7 barely four years old, had to undergo amputations after a device blew up when
8 thrown at a church in a neighbourhood that was deemed to be a pro-Bozizé
9 neighbourhood.

10 The severe suffering of all these victims and their family members still echo in this
11 courtroom. The expectations for justice can still be read on the faces of these victims.
12 Today is a turning point and it is of crucial importance in the eyes of the victims,
13 the affected communities and the people of the Central African Republic, who have
14 waited so long for justice in this case against Mr Mahamat Said Abdel Kani.
15 I am confident that justice shall be rendered after our submissions and those of
16 the various parties, which will be heard today and tomorrow. I thus conclude and I
17 would now like to asked my colleague, Ms Makwaia, to take the floor.

18 Once again, I thank you, your Honours.

19 PRESIDING JUDGE SAMBA: [9:54:12] Thank you very much, Mr Prosecutor.

20 Ms Makwaia, please, can we hear from you.

21 Ms Makwaia, just a moment. Maybe let's have a correction to the transcript.

22 I don't know the right reference point, but I'm made to understand that both in
23 the French and English version of the transcript we have at particular line 13
24 the mention of the year 2014. I think the Prosecutor was trying to talk in respect of
25 responsibility for the offences committed in the Central African Republic between

1 the period 12 April and 30 August, but the year that we have there is 2014. Can you
2 confirm whether or not you meant, Mr Prosecutor, 2014 or 2013, of August?

3 MR NIANG: [9:55:27](Interpretation) Indeed, your Honour, it was 2013.

4 PRESIDING JUDGE SAMBA: [9:55:33] Thank you very much for that clarification.

5 MR NIANG: [9:55:41](Interpretation) The period in question is in the year 2013.

6 PRESIDING JUDGE SAMBA: [9:55:48] Thank you very much for that clarification.

7 Ms Makwaia, please, can we hear from you.

8 MS MAKWAIA: [9:55:59] Thank you, Madam President, your Honours. Good
9 morning.

10 Before I proceed, Madam President, a bit of housekeeping matter. Our evidence
11 channel is not working.

12 We -- at this portion of our presentation, we won't be showing any slides, but we
13 missed the opportunity to show a few with the DP. If we could be assisted, we
14 would be grateful.

15 PRESIDING JUDGE SAMBA: [9:56:26] The court officer will come to your rescue in
16 that regard. Thank you.

17 MS MAKWAIA: [9:56:32] Before I start, your Honours, I would like to delineate
18 the manner in which we shall be proceeding, with addressing some of the issues
19 raised by the Defence in their closing brief.

20 I shall start by addressing you on some issues related to evidentiary matters. I shall
21 be followed by Ms Anusha Rawoah, who shall address issues with respect to
22 the non-international armed conflict, who will be followed by Ms Marie-Jeanne
23 Sardacht, who will address you on four incidents. And we shall finish with
24 Mr Thomas Bifwoli, who shall address you on matters raised with respect to
25 the mode of liability. And then, when we come to the Prosecution case, I shall be

1 summing up with Ms Sanyu Ndagire.

2 Having said that, Madam President, I shall now start.

3 Madam President, your Honours, the Defence has raised multiple issues and

4 assertions with respect to the knowledge of Mr Said on the running, on

5 the constitution of the former-led Seleka government, and even the coalition. We

6 have a very simple answer to that, your Honours.

7 This case is not a case against the Seleka coalition, it is not a case against

8 the government led by the Seleka coalition. It is the case against

9 Mr Mahamat Said Abdel Kani for his act and conducts during the charged period,

10 where, as you've heard from Mr Prosecutor, he faces seven counts.

11 I will start with an evidentiary issue also repeated continuously in the Defence brief

12 with respect to the evidence presented by the Prosecution that it claims lacks

13 corroboration, lacks or contains inconsistencies in support of its general contention on

14 the weakness of the Prosecution evidence.

15 The Defence, Madam President, your Honours, also takes issue with what it deems

16 the lack of forensic evidence, therefore weakening the presented case.

17 Your Honours, here again our position is quite simple. These issues are settled in

18 law and your Honours have a broad discretion when you come to the assessment of

19 the evidence presented before you because you will do so in a holistic manner to

20 issues pertaining to credibility and their reliability of witness evidence.

21 Further, Madam President, corroboration is not required as a matter of law. And

22 here I would like to refer your Honours to the Lubanga appeal judgment at

23 paragraph 218, the Bemba et al appeal judgment at paragraph 1084, and also an

24 appellate decision Ngudjolo at paragraph 184. And even the Rome Statute does not

25 require corroboration before your Honours can consider a piece of evidence.

1 Madam President, your Honours, inconsistencies in witnesses's evidence, we submit,
2 constitute no bar to reliability. And again I would refer you to the same appellate
3 decisions, starting with Ngudjolo, in support of this assertion, para 168; the Ntaganda
4 appeal judgment at para 806.

5 Now, with respect to whether or not the lack of forensic evidence weakens
6 the Prosecution case, Madam President, the answer is no. Forensic evidence is not
7 required to prove a crime falling within the jurisdiction of the Statute.

8 And here, your Honours, I'd like to refer you to the Ongwen trial judgment at
9 paragraphs 1471 to 1472. We also refer you to the Musema trial judgment and
10 sentencing at paragraph 52.

11 I forgot to inform your Honours, all these decisions are listed in our book of
12 authorities for your ease of reference.

13 Madam President, in assessing the evidence that has been presented before you,
14 your Honours would recall that many of the witnesses during the trial were victims
15 of Said's horrendous crimes. For example, P-547, 481, and others you had the
16 opportunity to hear. In this regard, we shall also recall the jurisprudence available
17 that states the impact of trauma and the passage of time may have a contributing
18 factor to a witness's recollection. Both these factors can be, your Honours, a source
19 of unclarity in the evidence that is given. We submit, your Honours, that when you
20 assess the totality of the Prosecution evidence you should give due consideration and
21 appropriate allowance in factoring in all these indicia that may impact the testimony
22 of a witness. The evidence should be assessed in its entirety, holistically and not
23 piecemeal.

24 I here refer you to the constant case law we also cited in our table of authorities found
25 in Bemba et al trial judgment at paragraph 203. Also in the Al Hassan trial judgment

1 at paragraphs 40 to 41. In the Yekatom, Ngaïssona trial judgment at paragraph 201.

2 And again in the Ongwen trial judgment at paragraph 258.

3 Your Honours, it's our submission the Defence adopted a fragmented approach to the
4 evidence led by the Prosecution. It has dissected the evidence to feed into an
5 argumentative line which is not supported by the law and as a result their assessment
6 failed to pierce the solidity of the body of credible and reliable evidence presented by
7 the Prosecution during the trial that we submit establishes Mr Said's responsibility in
8 the crimes as charged.

9 I will only refer you to the paragraphs where these contentions are made in the
10 Defence brief, Madam President, in the interest of time. I am quite aware we've got
11 very limited time.

12 These allegations or assertions made by my friends across the bar can be found at
13 paragraph 95, 120, 127, 137, 417, 142, et cetera, with respect to corroboration. And
14 again, paragraphs 317, 324, 328, 433, et cetera, on inconsistencies.

15 Now, with respect to the lack of forensic evidence, this is also mentioned at
16 paragraph 4.

17 Madam President, your Honours, you may recall the evidence of {PFR: (Redacted)},
18 a Prosecution investigator who clearly testified that it was not always necessary to
19 conduct forensic evidence if other pieces of direct and corroborated evidence existed,
20 and he gave an example of a particular incident where he was being cross-examined
21 on.

22 In conclusion on this topic, Madam President, it's our submission that the Defence
23 assertions pertaining to issues which are in fact some of the many -- pertaining to
24 issues which may be impacted by some of the many factors you will find in the cited
25 case law should be taken into consideration when you do a holistic review of

1 the Prosecution evidence and not undertake the approach taken by the Defence of
2 isolating or dissecting line by line, piece by piece.

3 I shall now turn, your Honours to another issued raise in the Defence brief with
4 respect to incidents D and K.

5 Your Honours, recently, on 20 October 2025, we clarified to the Chamber that incident
6 D and K are properly before the Chamber and the Prosecution has no intention
7 whatsoever to withdraw these incidents for your consideration when you make your
8 deliberation with respect to the evidence you've heard.

9 Both incidents are found in the DCC, have been confirmed by the Pre-Trial Chamber
10 at paragraph 29(d) and (k) of the Decision on the Confirmation of the Charges.

11 As we identified in the clarification response, Madam President, there is evidence on
12 record, ample evidence on record to establish both incidents.

13 Granted, Madam President, your Honours, the two victims of these allegations did
14 not appear before you because they declined to testify for the reasons we presented to
15 the Chamber. Nevertheless, the allegations have been proved, the allegations have
16 been proved with the other evidence that is available on record.

17 As for the allegation that -- as for the contention concerning the absence of evidence
18 on Mr Said's role and responsibility in relation to both these incidents, the Prosecution
19 refers the Chamber to the evidence mentioned in paragraphs 105 and 123 of its
20 closing brief on Mr Said's role at the time of relevance to the charges. Based on this
21 evidence, your Honours, it is our case that a reasonable inference can be drawn on
22 Mr Said's individual criminal responsibility in relation to the detention of P-0645 and
23 P-2172 at the OCRB.

24 I shall now turn to another issue raised by the Defence, and this time,
25 Madam President, your Honours, it's with respect to CEDAD as a non-charged

1 incident for the purpose of the contextual elements of crimes against humanity.

2 Your Honours would recall that evidence related to the CEDAD has been set out in

3 paragraphs 72 to 75 of the Prosecution's closing brief in the section on contextual

4 elements of the crimes against humanity.

5 The Defence asserts at paragraph 144 and 146 of its brief that the Prosecution

6 reintroduced charges by considering evidence on the CEDAD to establish that an

7 attack took place pursuant to Article 7(1) and 7(2) of the Statute. This defence

8 position, Madam President, your Honours, is inapposite. The Prosecution did not

9 reintroduce the charges by reconsidering evidence on CEDAD.

10 As set out in the Court's jurisprudence, it is permissible for the Chamber to consider

11 non-charged incidents for the purpose of an attack pursuant to Article 7(1) providing

12 they fall within the temporal and geographical scope of the charges.

13 We refer your Honours here to the decision on the confirmation of charges in

14 the Ntaganda case, also in our book of authorities, more particularly at its

15 paragraph 23.

16 After all is considered and said, Madam President, your Honours, the Defence at the

17 end of the day has been on notice, the Defence has been on notice of the temporal and

18 geographical scope of the attack under consideration by your Honours at

19 paragraph 60 of the Confirmation of Charges Decision and at paragraph 50 - and I'll

20 stop there - at paragraph 60 of the Confirmation Decision of the Charges. This took

21 place in 2021, they have been on notice, ample notice for more than two years.

22 And I will just give a bit of context, Madam President. This attack is described as

23 a cause of conduct taking place from at least April 2013 until at least November 2013

24 against the civilian population in Bangui perceived to be Bozizé supporters. So it's

25 covered by the temporal scope.

1 Your Honours, in the case at bar, this contention does not warrant any further
2 consideration. There is no doubt that the detention and ill-treatment of perceived
3 pro-Bozizé supporters at the CEDAD between mid-September 2013 to 8 November of
4 the same year in Bangui falls squarely within the temporal scope and geographical
5 scope of the attack, as defined in paragraph 60 of the Confirmation of Charges
6 Decision.

7 I shall conclude on this point, your Honours, by stating that the Prosecution
8 committed no error in arguing that this non-charged incident forms part of the Seleka
9 attack which took place against perceived pro-Bozizé supporters in Bangui from at
10 least April 2013 to November of the same year.

11 I'm now turning to another contention raised by the Defence in its brief and this time
12 it's with respect to the scope of application of counts 2 to 4.

13 At paragraphs 562 and 563 of its closing brief the Defence contests the scope of
14 application of counts 2 to 4 as summarised in the closing brief. It contends,
15 your Honours, that the Pre-Trial Chamber only confirmed counts -- only confirmed
16 counts 2 to 4 in relation to five incidents. And these are incident B, E, H, M and Q.

17 Madam President, your Honours, the Defence proposes an erroneous reading to
18 the charges, we submit. Counts 2 to 4, as formulated in the Decision on
19 the Confirmation of the Charges, contains a non-exhaustive list of the confirmed
20 incidents. And I'm going to repeat this: it contains a non-exhaustive list of
21 the confirmed incidents, "including as summarised in", in quotation marks, which are
22 now under consideration by your Honours' Chamber.

23 Going back to the Decision on the Scope of the Charges, ICC-01/14-01/21-472 at
24 paragraph 25, your Honours, you have confirmed that the scope of the charges -- that
25 the scope of the charged crimes in the present case is limited to the specific incidents

1 listed in the confirmation decision.

2 However, for the purposes of counts 2 to 4, this includes not only the victimisation
3 expressly mentioned therein, but also the victimisation of other persons, provided,
4 your Honours, and we put emphasis there, other persons, provided they were also
5 listed in paragraph 29 of the operative part of the confirmation decision.

6 Your Honours, according to the Pre-Trial Chamber, the scope of counts 2 to 4,
7 moreover, was not limited to the incidents listed in the confirmation decision. An
8 interpretation supported by the Trial and Appeals Chamber in Ntaganda. We
9 would like to refer your Honours to the Pre-Trial Chamber's decision at
10 ICC-01/14-01/21-396, paragraphs starting 16, ending at 25. And also to the appeals
11 judgment in Ntaganda at paragraph 326, and the trial judgment in Ntaganda at
12 paragraphs 37, 40 and 41.

13 Subsequently, your Honours, it's our submission that the Defence contention should
14 not be given any further consideration.

15 In its brief, Madam President, your Honours, the Defence has also mischaracterised or
16 conducted an assessment of the presented evidence by Prosecution witnesses in
17 a flawed manner. It has repeatedly mischaracterised the evidence in an attempt to
18 discredit the evidence presented by the Prosecution to establish the crimes charged.

19 Your Honours, in the 81 witnesses presented before you, we presented a solid body of
20 evidence for your consideration when you retire to deliberate. We have only chosen
21 a few salient examples from the Defence brief to demonstrate the flaws or
22 the mischaracterisation of the evidence they have undertaken.

23 For example, Madam President, at paragraphs 180 to 184 of the Defence closing brief,
24 the Defence contends that P-1339 did not know what was happening in Zongo, nor
25 participate in the discussions between soldiers and was basically {PFR: (Redacted)}

1 (Redacted)}. The manner in which this assertion is put forward totally
2 mischaracterises the evidence of the witnesses. It took a line of one of his responses
3 to a question and then ran with it.
4 The evidence on the Anti-Balaka has been assessed in isolation. Once again, not in
5 the totality of the witness's entire evidence, hence the flawed assessment by
6 the Defence.
7 You may recall, your Honours, that this witness testified that after the March 2013
8 attack he fled to Zongo, where he saw soldiers discussing among themselves. While
9 he was not aware of everything that was going on, he testified about his interactions
10 with the individuals that ultimately led him to join the Anti-Balaka. And here we
11 would refer you to transcript 131, 23, column 10-22. We do not want to delve any
12 further into the evidence of this witness.
13 Now turning to paragraphs 520 and 24 of its closing brief, the Defence also contends
14 that Witness P-547 -- that the account of Witness P-547 contains no reference to
15 Mr Said, the accused before you today.
16 This, we submit, is another mischaracterisation of the evidence. P-547 testified that
17 he saw Said on several occasions at the OCRB, identified him on photographs shown
18 here in court, as referred to in paragraph 219 of our closing brief, and testified,
19 your Honours, at length before you about his role and control over the detainees at
20 the OCRB. Your Honours, here we refer to excerpts of transcript T-12 and T-13, or
21 submitted to you before this hearing.
22 Madam President, P-547's evidence needs to be assessed in the context of other
23 evidence on detentions at the OCRB at the time of the charges. For instance, his
24 evidence on the underground cell is corroborative, corroborative of the evidence of
25 numerous Prosecution witnesses such as P-3056 and P-2478, to cite just a few.

1 Your Honours, I submit that the Defence not only failed to consider the evidence in its
2 totality, but it also presented an erroneous reading of the evidence in support of its
3 assertions.

4 Having said that, Madam President, this concludes my part on the Defence brief and I
5 now invite Ms Anusha Rawoah, who shall be speaking to issues raised with respect to
6 the non-international armed conflict.

7 Thank you for your attention.

8 PRESIDING JUDGE SAMBA: [10:22:02] Thank you very much, Madam Prosecutor.

9 Ms Rawoah, we'll listen to you, please. Thank you.

10 MS RAWOAH: [10:22:25] Thank you, Madam President, your Honours. Good
11 morning.

12 My submissions today address the principle issues arising from the Defence brief,
13 notably on war crimes.

14 As the Chamber is aware, the Prosecution's full position on war crimes is addressed at
15 pages 5 to 27 of the Prosecution's closing brief.

16 Your Honours, the Defence arguments on war crimes fall in four broad categories:

17 First, the evidentiary weight to be attached to the testimonies of Defence witnesses
18 P-0015 and P-0022.

19 Second, the alleged lack of organisation of the Anti-Balaka and the Seleka.

20 Third, the Defence contention that there was no armed confrontation existing prior to
21 September 2013.

22 And fourth, the Defence submissions on Mr Said's knowledge.

23 Your Honours, I would now turn to the first issue.

24 Your Honours, at paragraphs 157 to 165 the Defence contends that the Prosecution
25 delivered its narrative without presenting the witness with facts. Respectfully,

1 your Honours, the Prosecution disagree.

2 Regarding P-0015, your Honours will recall that the witness was called as a witness of
3 facts. The witness was duly confronted with all the relevant facts during
4 cross-examination. However, her answers revealed significant gaps in knowledge
5 concerning factual matters.

6 And for this I refer your Honours to the English transcript, T-136, pages 4 to 6.

7 In those -- in this transcript you will recall, your Honour, P-0015 admitted having no
8 information at all as to whether any peace agreement was signed between
9 the Anti-Balaka and the Seleka after the March 2013 attack. She even had no
10 knowledge as to what had happened to the pro-Bozizé forces after they had fled. In
11 fact, she admitted that her research focused on the armed elements which remained in
12 the country.

13 Likewise, your Honours, for P-0022, the same deficiencies apply. This witness was
14 also a witness of fact. He came to testify, yet he had no meaningful knowledge as to
15 the events related to this case. Your Honours will recall that the witness was in
16 the Central African Republic for only two weeks.

17 And I will here refer his responses in transcript 134, the English version, page 57 and
18 page 70. The witness admitted never having even heard about the OCRB.

19 The witness said he had no knowledge about the Seleka bases in Bangui.

20 By contrast, your Honours, we have on record overwhelming evidence from insider
21 witnesses, as well as victims, which contradict the Defence version on every material
22 point. I refer by way of example here the evidence of P-0291, P-2232, P-1339, and
23 other Seleka insider witnesses such as P-2105, P-1167 and P-2563, whose evidence
24 give us an explanation on what had happened actually in the Central African
25 Republic in 2013 and as well as matters pertaining to their personal knowledge.

1 Therefore, your Honours, Prosecution submits that neither of these two Defence
2 witnesses were capable of undermining at any rate the substantial evidence on record
3 from Prosecution.

4 This now brings me to the second issue, the alleged lack of organisation of
5 the Anti-Balaka.

6 It is Defence contention, your Honours, at paragraphs 180 to 184 and 223 to 228, that
7 the Anti-Balaka lacked the organisation, structure, logistical or operational capacity.
8 Your Honours, the evidence demonstrates the opposite, and this for the following
9 reasons:

10 First, it is Prosecution's submission that the pro-Bozizé forces, which later became
11 the Anti-Balaka, maintained an effective command structure, adapted to their
12 circumstances.

13 It is not disputed that prior to 24 March 2013, Bozizé commanded the state armed
14 forces, namely the FACA. Therefore, these forces already enjoyed the legal
15 presumption of sufficient organisation.

16 Now, referring to the case of Delalic, trial judgment paragraph 231, the Prosecution
17 submits that whatever the precise legal classification of these forces loyal to Bozizé, in
18 the immediate aftermath of March 2013 they represented part of the same party that
19 had been subject to Bozizé's control, that is, the party opposing the Seleka.

20 Your Honours, after the 24 March 2013 attack by the Seleka, the pro-Bozizé forces had
21 set up a command structure with military commanders. They were known as
22 the ComZone. And you have heard P-2232's testimony on this. He testified that
23 this term was copied from the military model.

24 I'll here refer your Honours to the transcript T-102, pages 33 and 37, the English
25 transcript, where P-2232 explained that Mokom was the coordinator of operations.

1 And I quote, "he prepared the ComZones for the attacks, he taught them combat
2 tactics on the phone."

3 The Anti-Balaka leaders were able to communicate among themselves through
4 telephone and they were able to coordinate. Using the words of P-1339, "there [were]
5 very good communication[s]" among the ComZones.

6 The pro-Bozizé were organised into sections, as explained by P-1339 in English
7 transcript T-132, pages 19 and 20. And they were also identified by *gris-gris*.

8 In all, your Honours, the clear objective of the Anti-Balaka was to drive the Seleka out
9 of the country and regain power from them, as explained by P-2232.

10 My next point is that contrary to what Defence asserts at paragraphs 217 to 220,
11 the pro-Bozizé forces did have the -- did have the logistical capacity. They had
12 the capacity to train and recruit new elements.

13 P-1339 testified that after retreating to the provinces, volunteers joined and they were
14 trained on how to use weapons. They were in fact trained by former FACA soldiers.

15 Weapons were therefore provided to the members and, as explained by P-2251 and
16 P-0342, the Anti-Balaka used weapons, albeit traditional weapons fashioned by
17 themselves, arrows and knives. They had pan lids, they had grenades during
18 the attacks with the Seleka, as explained by P-2251.

19 The pro-Bozizé forces, your Honours, also made use of various means of
20 communication. As submitted, they made use of telephone, they also made use of
21 emails.

22 And I will here refer to the several email communications of key actors between
23 March and November 2013, showing the pro-Bozizé forces eventually taking steps to
24 reorganise, resupply, and rearm their forces. And here paragraph 41 of
25 the Prosecution closing brief address this issue.

1 My next point is that, contrary to Defence assertions, the pro-Bozizé forces had

2 the operational capacity to carry out military attacks.

3 Your Honours, the reorganisation of the pro-Bozizé forces after March 2013 actually

4 assisted them to coordinate attacks.

5 Your Honours heard evidence that on 18 August 2013, the pro-Bozizé forces launched

6 an attack at the National Assembly in Bangui to disrupt the second inauguration of

7 Djotodia. Actually, your Honours, the pro-Bozizé forces had the capacity to collect,

8 to act on the intelligence collected which they used during the attacks.

9 And as explained by the former prime minister of Central African Republic, P-0291,

10 the Anti-Balaka had organised themselves in the provinces and they launched several

11 attacks between August and September 2013.

12 Additionally, your Honours, contrary to what Defence contends, that there has been

13 inadequacy of funding of the Anti-Balaka forces, Prosecution submits that there is

14 evidence on record about the funding to this organisation.

15 As explained by P-2232, funding came to the Anti-Balaka from the house of Mokom

16 being provided as guarantee, as well as money transferred from Cameroon. I'll here

17 refer to his testimony at English transcript T-102, pages 40 to 41.

18 He further explained, and I quote: "They would get money because during fighting

19 some would flee and leave their goods behind, vehicles or other possessions. So

20 they would use those things to get money".

21 Therefore, the Prosecution submits, your Honour, based on this evidence adduced,

22 the pro-Bozizé forces were duly organised.

23 I now turn to the next point, the Defence contention that the Seleka lacked

24 organisation.

25 Prosecution submits, your Honours, that at all material times, and even before

1 the capture of Bangui in March 2013, the Seleka was sufficiently organised so as to
2 establish the existence of a non-international armed conflict.

3 I'll here refer your Honours to paragraphs 21 to 31 of the Prosecution closing brief.

4 First, the Prosecution submits that the Seleka did have the capacity to conduct
5 military operations. * Your Honours heard evidence from Seleka insiders that in
6 March 2013, Seleka leaders, including Djotodia and Adam, met at Sibut, they planned
7 and coordinated the attack to capture Bangui. The Seleka elements then marched
8 towards Bangui and entered the city from different directions.

9 And here the exhibit bearing reference CAR-REG-0002-0035 becomes relevant, which
10 is the map on which P-2105 annotated regarding the routes which the various
11 commanders took with their troops down to Bangui.

12 On 24 March 2013, the Seleka launched an attack on Bangui, they overthrew
13 the Bozizé government. This shows the Seleka's military capacity to carry out
14 a coordinated operation, leading even overthrowing a government in power.

15 My next point is that the Seleka controlled an important territory in Central African
16 Republic, including its capital city Bangui by 24 March 2013.

17 Your Honours, after the Seleka had taken power in March 2013, they started
18 controlling an even more substantial territory of the Central African Republic than
19 before.

20 They had then set up checkpoints system to control movement of people within
21 the territory. I'll here refer to the Boy-Rabe incident in April 2013 and the PK9
22 checkpoint incident in July 2013 where the Seleka blocked entry and exit points with
23 armed men, preventing the population from escaping violence.

24 To maintain their power, the Seleka established various bases such as the OCRB
25 Central, OCRB Ngouciment, "CEDAD", *Camp de Roux*, *Camp Kassai*, and

1 *Sapeurs-Pompiers.*

2 Your Honours, another factor borne out by evidence is that the Seleka had a proper
3 command structure.

4 The evidence on record shows that before he became president, Djotodia, the leader
5 of the Seleka, was even giving orders to Seleka members, and they were being
6 complied with.

7 For instance, you have heard insider witnesses P-2563 and P-1167 stating that
8 the March 2013 attack was carefully planned and that instructions came from
9 Djotodia.

10 Your Honours, upon gaining power, the Djotodia-led government appointed Seleka
11 members to key posts such as security and finance ministry. This was done through
12 official presidential decrees. I'll here refer your Honours to the CAR presidential
13 decree CAR-OTP-2004-1597.

14 A National Security Council was also established through a presidential decree and
15 senior Seleka officials were holding weekly meetings to assess the security matters in
16 the Central African Republic.

17 My next point, your Honours, is that there is also evidence on record that the Seleka
18 had significant logistical capacity. On this your Honours heard several witnesses,
19 namely P-0338, P-3056, P-1339, P-2563, who explained that during the March 2013
20 attack, the Seleka were well equipped, they had military type vehicles, weapons, and
21 other equipment. Several photographs have been adduced as evidence, such as
22 the photograph bearing reference number CAR-OTP-2074-1124, as well as
23 CAR-OTP-2042-4942.

24 P-2105 in fact testified that each Seleka troop had an AK-47 and heavy weapons used
25 by the Seleka. They possessed satellite phones, the Thurayas, which the leaders used,

1 the Seleka leaders used to communicate among themselves and plan the advance
2 upon Bangui.

3 The Seleka were also provided with identification badges issued with stamps of
4 Seleka and signed by Adam. I'll here refer to the identification badges on record for
5 P-2105, P-1737 and P-2563.

6 Moreover, your Honours, there were military camps, training camps established by
7 the Seleka to provide training to the elements.

8 The Seleka had a system of food distribution across the bases and uniform
9 arrangements were made for them.

10 They also -- the OCRB Seleka also wore uniform and blue armbands.

11 Your Honours, all this evidence on record clearly demonstrate that the Seleka did
12 have a command structure and military capacity to carry out successful operations.

13 I now turn to the third point of contention by the Defence, that there was allegedly no
14 armed confrontation between the Anti-Balaka and the Seleka until September 2013.

15 At paragraphs 243 to 247, your Honours, the Defence argues that there was a lack of
16 intensity of conflicts between 24 March 2013 and end of August 2013.

17 The Prosecution respectfully disagrees.

18 Your Honours, it is settled law that the intensity and protracted armed conflict
19 criterion do not require the violence to be continuous and uninterrupted. Rather, the
20 essential criterion is that it goes beyond isolated or sporadic acts of violence.

21 I will refer your Honours here to the trial judgment of Bemba at paragraph 140.

22 In the present case, as already submitted before, there was an initial conflict between
23 the Seleka and the pro-Bozizé forces in the late 2012. This led to the attack in
24 March 2013 and overthrowing of the Bozizé government in March 2013.

25 Therefore, this initial conflict, your Honours, transcended mere isolated or sporadic

1 acts of violence. The conflicts were so intense that this even prompted
2 the international community to intervene. A ceasefire agreement was signed
3 between the parties on 11 January 2013, but it was short-lived.
4 On this issue, your Honours, I refer to the trial judgment of Ntaganda, paragraph 723,
5 where it was held that the signing of ceasefire agreements is an indication that
6 the situation being addressed by the agreement was of a significant intensity, which is
7 precisely the case here.
8 When the Seleka took power on 24 March 2013, the pro-Bozizé forces did not
9 surrender. They did not sign any peace agreement with the pro-Bozizé forces.
10 The pro-Bozizé forces, on the other hand, regrouped, they went to the provinces.
11 And as P-2232 testified, the Anti-Balaka was formed a month or two after the Seleka
12 took power on 24 March 2013. Therefore, your Honours, the hostilities against
13 the Seleka continued.
14 And I'll here refer to the Boy-Rabe incidents of April 2013, as well as to the incident,
15 the attack on 18 August 2013 to prevent Djotodia from being sworn in.
16 Subsequently, in August and September 2013, the pro-Bozizé forces launched several
17 attacks, as explained by P-0291.
18 Many civilians were displaced, your Honours, and this prompted the Seleka
19 government to deploy 0291 to Bossangoa to address the situation.
20 I will now refer your Honours to the trial judgment of Bemba, paragraph 141, where
21 it was held that international humanitarian law applies from the initiation of an
22 armed conflict and extends beyond the cessation of hostilities until a peaceful
23 settlement is achieved. Until that moment, international humanitarian law continues
24 to apply in the whole territory under the control of a party, whether or not actual
25 combat takes place.

1 As submitted, your Honours, when the Seleka took over power on 24 March 2013,
2 the pro-Bozizé forces did not sign any peace agreement with the Seleka.
3 In fact, your Honours, despite being in power, the Seleka were labouring under
4 constant fear of attacks from the pro-Bozizé forces. This prompted the Seleka to
5 monitor pro-Bozizé forces and gather intelligence on their activities.
6 For instance, your Honours, the Seleka members were sent on mission to Zongo by
7 the then minister of public security, Adam, in the period May to August 2013.
8 The purpose was to collect intelligence on the activities of the pro-Bozizé forces.
9 I'll refer here to the several *Ordre de Mission* quoted at paragraph 38 of
10 the Prosecution's closing brief. I also refer your Honours to the different military
11 intelligence reports which the Prosecution has referred to at paragraph 25 of its
12 closing brief.
13 Your Honours will also recall that as per P-0291, security meetings were being held on
14 a weekly basis to address the situation.
15 Consequently, your Honour, Prosecution submits that international humanitarian law
16 continued to apply throughout the whole of 2013, including the charged period.
17 I now turn to the final contention raised by the Defence in their closing brief,
18 challenging Mr Said's knowledge on the existence of a non-international armed
19 conflict between April and August 2013.
20 Your Honours, based on the evidence submitted, between 24 March 2013 and
21 5 December 2013, the Seleka remained active in the Central African Republic. They
22 continued to train their elements. They continued to exercise military power against
23 the Central African Republic population, as well as pro-Bozizé forces, and they left
24 Bangui after President Djotodia had stepped down from his position. And that was
25 on 10 January 2014.

1 Now, regarding Mr Said, after the Seleka had taken over Bangui in March 2013, he
2 was appointed head of the OCRB by Adam, who was the then minister of public
3 security under the Seleka-led government. Therefore, Mr Said's power flowed
4 directly from Adam.

5 There is evidence on record that Mr Said had cooperated with other Seleka leaders, as
6 of April 2013, in order to suppress resistance to the Seleka regime.

7 In these circumstances, your Honours, Prosecution submits that neither Mr Said, nor
8 any relevant factual perpetrator could have failed to know of the existence of a
9 non-international armed conflict.

10 To conclude, your Honours, Defence contentions raised on war crimes in the Defence
11 brief hold no water, in light of the substantial evidence adduced by Prosecution.

12 Therefore, the Prosecution submits that, based on the evidence, it has proved beyond
13 reasonable doubt the existence of a non-international armed conflict during
14 the charged period, as well as the commission of war crimes within the meaning of
15 Article 8 of the Rome Statute, as well as Mr Said's knowledge to these war crimes.

16 With this, I end my submissions, and I now pass the floor to Ms Marie-Jeanne
17 Sardachti. Thank you, your Honours.

18 THE COURT OFFICER: [10:48:45] May I please remind the parties and
19 the Prosecution to slow the pace, please. For the assistance of the interpreters, please
20 speak slower. Thank you very much.

21 PRESIDING JUDGE SAMBA: [10:48:56] Thank you very much, counsel.

22 Ms Sardachti, we have about 12 minutes to the first break. Just for you to know.
23 We will listen to you, please. Thank you.

24 MS SARDACHTI: [10:49:11] Thank you. Thank you, Madam President. It should
25 be over 15 minutes, so if you allow us to spill over the break a little bit.

1 PRESIDING JUDGE SAMBA: [10:49:22] I'm sure the Registry would accommodate
2 us and Defence would accommodate us if you need just 15 minutes. Please carry on.

3 MS SARDACHTI: [10:49:31](Interpretation) Good day, Madam President,
4 your Honours.

5 I'm going to respond to the arguments put forward by the Defence relating to four
6 incidents, which correspond respectively to paragraphs 29 g), h), j) and n) of
7 the Decision on the Confirmation of Charges against Mr Said.

8 Firstly, I'm going to talk about g) and j), where two FACA soldiers died.

9 The Defence criticises the absence of forensic investigative acts, and here I refer to
10 paragraph 464, incident g) of the Defence submissions, and incident 485 as regards
11 incident j).

12 Although the Prosecution has provided forensic evidence in certain cases, it still is
13 true that the applicable law is clear and the case law consistent. Forensic evidence is
14 not *sine qua non* a requirement to establish the existence of a crime before the Court.

15 I refer to the Rule 63(4) of the Rules of Procedure and Evidence * and the case law that
16 was already quoted, so I won't repeat the details.

17 As regards g), which is in paragraph 450 to 467 of the Defence brief, the evidence
18 shows that the soldier of the Central African armed forces was arrested in Bangui by
19 Mr Said and his agents.

20 Two key witnesses confirm this:

21 P-2504 saw Mr Said and his men place the FACA soldiers in their vehicle and he
22 followed them to the OCRB.

23 The other witness, P-2607, who {PFR: (Redacted)} of the FACA soldier, {PFR:
24 (Redacted) the OCRB. Mr Said came into the street, {PFR: (Redacted)
25 (Redacted)}.

1 * Shortly thereafter, P-2607 was able to identify the FACA soldier by recognising his
2 {PFR: (Redacted)} vehicle marked "OCRB".

3 I here refer to paragraph 20 and 21 of his statement. In the French version, *
4 CAR-OTP-2127-9527.

5 The fact that P-2607 does not recall the precise colour {PFR: (Redacted)}, of the soldier,
6 or that there are some inconsistencies surrounding the date of the FACA soldier's
7 death certificate in no way undermines * the totality of the evidence establishes this
8 incident beyond any reasonable doubt. Regarding incident j), * referred to in
9 paragraph 485 to 492 of the Defence brief, the Prosecution relies in particular on
10 the testimonies of two witnesses, * whose identities I shall not disclose for reasons of
11 confidentiality. These testimonies are direct, detailed and consistent.

12 One of the witnesses describes with precision the scene of the arrest. * It relates to
13 facts that he personally experienced. * And here I refer to paragraph 181 to 183 of
14 our closing brief. * These concrete details are corroborated by the logbook of the
15 {PFR: (Redacted)}, as well as {PFR: (Redacted)}, and
16 which demonstrates the reliability of his account. In addition to that, there is the
17 testimony of a Séléka insider witness which corroborates the evidence of the first
18 witness. * The two accounts overlap on all essential points, the role played by Mr Said,
19 the violence of the arrest, the detention of the two men, and fit within a logical
20 chronology. Their internal and mutual consistency establish the credibility of
21 the evidence beyond reasonable doubt. As regards incident n), concerning a victim
22 bound in the *arbatachar* manner and locked in * the basement cell, I will address a few
23 points raised by the Defence at paragraph 507 to 513 of its submissions. At paragraph
24 507, the Defence asserts that the evidence put forward by the Prosecution regarding
25 this incident is weak because it relies on a single testimony * related to, and I quote,

1 "an unidentified person at an unidentified date". End of quote. The fact that
2 the evidence rests only on one witness is not in itself an obstacle to a conviction.
3 I will not repeat what the senior trial lawyer said in his introduction, but I would like
4 to recall an excerpt from Abd-Al-Rahman judgment on page 2 of our table of
5 authorities. And I will quote * 181, a non-official translation:
6 "In this judgment, the Chamber has reached certain findings on the basis of a single
7 testimony, where it was convinced that the witness was both credible and reliable."
8 End of quote.
9 * This applies fully to this witness, 1737, whose evidence is credible and reliable. His
10 account of the events is coherent and precise. In fact, P-1737, an OCRB officer,
11 describes the arrest of the person who is the subject of the charges. It is true that we
12 do not know the name of this person, but we know his profession, which I will not
13 state publicly for confidentiality reasons.
14 We have also situated the date of his arrest as indicated in our submissions at
15 paragraph 204, a date refined in light of the full body of evidence.
16 * Furthermore, P-1737 provides numerous details. I refer here to transcript T-44, page
17 42, line 14, to page 47, line 20..
18 He also specifies the place of the arrest. The person targeted in incident n) was
19 arrested in a neighbourhood of Bangui, an arrest during which Mr Said was present,
20 just as was General Rakiss.
21 And P-1737, an insider witness, observed * the Seleka members beating the victim
22 with military belts, tying up in *arbatachar* position, and interrogating him about his
23 links to Bozizé. P-1737 *testified that during the acts of torture, Mr Said and
24 Mr Adam were present. I refer to the French transcript T-44, page 46, line 18 to 27.
25 The victim was locked in a basement cell and the existence of that cell is consistent *

1 with the evidence from other witnesses of the Prosecution. For the evidence of P-1737,
2 I refer here to Transcript T-44, the French version, page 39, line 13, to page 40, line 16.
3 And for other witnesses on the existence of this basement cell, I refer to paragraph 116,
4 197, 212 and 271 of our submissions. Furthermore, the arrest and mistreatment
5 described in incident l) are not isolated acts. They conform to the systematic pattern
6 that the evidence has demonstrated throughout the trial, namely, arbitrary arrests,
7 mistreatment and torture, and persecution of civilians perceived as Bozizé supporters.
8 * For example, P-1737 {PFR: (Redacted)}. His
9 testimony corroborates P-1289's account of his arrest and detention. His evidence is
10 therefore consistent with other elements in the file. Ultimately, the credible and
11 reliable testimony of P-1737, corroborated by other evidence, is sufficient to establish
12 the accused's responsibility for this incident beyond reasonable doubt.
13 Finally, I would like to conclude by addressing incident h), concerning
14 the individuals arrested and detained at the OCRB after being accused of distributing
15 a leaflet or flyer calling for a "dead city" operation. This incident is referred to in
16 paragraphs 468 and 474 of the Defence's written submissions.
17 In this paragraph, your Honours, the Defence invites you to rely on Central African
18 law to justify the lack of respect for procedural rights. However, the law is clear.
19 The determination of the illegality of the crime * against humanity of imprisonment
20 and other severe deprivation of physical liberty is not based on national law.
21 The third element for the crime of imprisonment under Article 7(1)(e) of the Statute is
22 explicit. What matters is that there has been a violation of fundamental rules of
23 international law.
24 First, with regard to the legal basis of the arrest, the Defence refers to the provision in
25 the Central African criminal court on "acts likely to compromise public security" in

1 paragraphs 311 and * 468 of its submissions.

2 However, the evidence shows that the arrests were in fact arbitrary. For example,
3 with regard to P-1743, P-0358, P-2263, P-2295 and P-1180, three detainees were not
4 informed of the reason of their arrests.

5 P-1743 said, and I'm quoting: "We did not know why we were being questioned or
6 arrested." End of quote. And I'm referring to transcript, French transcript T-086,
7 page 32, line 2 to 4.

8 P-2263 also testified: "They did not answer when we asked them why were they
9 taking us away." End of quote. And I'm referring to the statement
10 CAR-OTP-2130-6271, paragraph 18.

11 P-2295 testified that he did not understand what was happening. He added, and I
12 quote: "I did not know where they were taking me. They did not tell me why they
13 were arresting me or what offence I committed." End of quote. And I'm referring
14 to his statement in French, * CAR-OTP-2135-1852 -- paragraph 15-16 and
15 paragraph 18.

16 As far as P-1108 and P-0358, even though they knew that they were accused of
17 overthrowing the government, their arrest was arbitrary because it was politically
18 motivated. This was in fact an act of persecution.

19 Now, secondly, with regard to the violation of fundamental rights during detention,
20 P-1743, P-2263, P-2285 and P-1180 were tortured and detained in inhumane
21 conditions.

22 With regard to acts of torture, the Defence refers to contradictions. It states in
23 paragraph 475 of his submissions that the witness -- that the witnesses, and I quote,
24 "present very different versions of the violence that allegedly took place upon
25 the arrival at the OCRB". End of quote.

1 On the contrary, the accounts are consistent and corroborate each other.

2 They all describe being stripped naked, forced to lie down -- lie face down on the
3 ground, covered with mud or a mixture of water and sand, and then severely beaten,
4 some specifying with whips.

5 And P-2692, who was detained at the same time, refers to the same scene in his
6 statement. And I'm referring to paragraph 33, CAR-OTP-2130-6685. * I clearly
7 remember another case of acts of violence. One day, a large group of prisoners
8 arrived in the courtyard. The Seleka were accusing them of being involved in the
9 preparation of a coup d'État against Djotodia, and in the distribution of tracts. That
10 was before they were beaten. The elements who were making those claims were
11 speaking in Sango. They asked the prisoners why they were dabbling in politics and
12 the production of documents demanding the resignation of Djotodia, the same person
13 who had suffered in the bush before coming to power. The prisoners were made to lie
14 down, with their stomachs on the ground, after which the Seleka threw sand and
15 water on their naked backs. Thereafter, they hit them on their backs with whips,
16 leaving them with bloodied backs". End of quote. To refute the existence of these acts
17 of torture, the Defence invokes the absence of a medical certificate in paragraph 475 of
18 its submissions. This argument is not convincing. Of course, that would have been
19 ideal, but a medical certificate is not necessarily required. Article 69(4) of the Statute
20 enshrines the free assessment of evidence, and the Chamber takes into account its
21 probative value even in the absence of material evidence.

22 In the Ongwen Judgment, for instance, which is on page 4 of our table of authorities -
23 and I am referring here to paragraphs 1471 and 1472 -, the Chamber recognized rape
24 on the basis of a detailed and consistent account without requiring a medical
25 certificate, thus taking into account the -- taking into account the realities of conflict

1 zones.

2 Now, in this case, the testimonies regarding the torture suffered are sufficiently
3 detailed and corroborated to convince the Chamber beyond reasonable doubt.
4 Furthermore, the Defence in paragraph 474 of its written submissions cites the
5 differences in the sentences handed down by the High Court against four detainees to
6 demonstrate that the procedure -- that the process was impartial. However, no
7 sentence, whatever it may be, can retroactively justify arbitrary arrest, acts of torture
8 or inhumane conditions of detention.

9 PRESIDING JUDGE SAMBA: [11:07:42] How much -- how much more time do you
10 need, counsel?

11 MS SARDACHTI: [11:07:44](Interpretation) I can finish in one minute.

12 PRESIDING JUDGE SAMBA: [11:07:48] Please go on.

13 MS SARDACHTI: [11:07:49](Interpretation) The Defence argues -- are
14 not convince -- the Defence arguments are not convincing.

15 On the contrary, the evidence in the file establishes Mr Said's responsibility for
16 the incidents beyond any doubt. Your Honours, in conclusion, no, the acts of torture
17 suffered by these detainees are in no way justifiable and certainly do not fall under
18 Central African criminal law, they are punishable under the Statute of the Court.
19 They also constitute an act of persecution. The incident involving the leaflets or
20 *tracts* clearly illustrates the policy pursued by the Seleka to silence people through
21 violence.

22 Thank you for your attention, your Honours. And after the break it's my colleague
23 Thomas Bifwoli who will respond to the arguments proffered by the Defence on
24 the modes of responsibility.

25 PRESIDING JUDGE SAMBA: [11:08:56] Thank you very much, Ms Sardachti.

1 Mr Prosecutor, I see you wanted to stand. Do you have anything to say or -- okay,
2 so we're going to have a short break here and when we come back in 30 minutes we'll
3 hear from the next Prosecutor - is it Mr Bifwoli? Yes - to continue with
4 the Prosecution's address.

5 So I rise the Court for 30 minutes, please. Thank you.

6 THE COURT USHER: [11:09:25] All rise.

7 (Recess taken at 11.09 a.m.)

8 (Upon resuming in open session at 11.43 a.m.)

9 THE COURT USHER: [11:43:41] All rise.

10 PRESIDING JUDGE SAMBA: [11:44:09] Good morning, again, everyone.

11 So we're going to continue with the Prosecution's submission on the Defence's closing
12 brief. The Prosecution has five minutes more to do that, but we do take note that
13 you have 60 minutes to give your -- to summarise your case. So depending on how
14 you use your time, you have a total of 65 minutes for today's proceedings.

15 Mr Bifwoli, we will listen to you.

16 MR BIFWOLI: [11:44:54] Thank you, your Honours.

17 In my submissions, I will address the issues raised by the Defence at paragraphs 600
18 to 638 of the Defence closing brief in relation to the mode of liability.

19 In their submissions, the Defence contend that direct co-perpetration as a mode of
20 liability has no basis in the Statute or the case law of the Court. They also contend
21 the circumstantial evidence is insufficient to prove a common plan. And they also
22 contend that essential contributions cannot be made to the crime. And fourthly, they
23 also contend that Said did not exercise effective command and control over the OCRB
24 Seleka and that intent and knowledge is not demonstrated.

25 Your Honours, turning on to the first issue at paragraphs 600 to 602, the Defence

1 argues that direct co-perpetration as a mode of liability is a creation of the Prosecution
2 and that it has never been endorsed by the judges of this Court. In the Defence's
3 view, this mode of liability has no basis, either in the Statute or the case law of the
4 Court. This is plainly incorrect.

5 Mr Said's submissions challenging his culpability for the co-perpetration are
6 misdirected and should be rejected.

7 Firstly, his challenge that the mode of liability of direct co-perpetration is a creation of
8 the Prosecution and that it offends the principle of legality is wrong. This mode of
9 liability flows from the plain terms of Article 25(3)(a) and has been confirmed by the
10 Appeals Chamber, including in the Ongwen appeal judgment number 20 -- 2022,
11 paras 627 as read with 636 and 637.

12 In paragraph 627, the Appeals Chamber deals -- deals with three forms of commission
13 in Article 25(3)(a), one of which falls under the category of joint commission, in
14 brackets, (or co-perpetration), namely direct co-perpetration. The Appeals Chamber
15 explained as follows. The Appeals Chamber -- and I quote:

16 "The Appeals Chamber observes that the wording of article 25(3)(a) of the Statute is
17 clear in that a person is considered a perpetrator when he or she (a) directly commits
18 a crime as an individual (direct perpetration); (b) commits a crime jointly with
19 another person (co-perpetration); and/or (c) indirectly commits a crime (indirect
20 perpetration). In this regard, indirect perpetration refers to situations when 'the
21 perpetrator uses another person as a tool to commit a crime'. The provision clarifies
22 in this regard that it is irrelevant whether or not the direct perpetrator is criminally
23 responsible him or herself."

24 Your Honours, in that appeal judgment, the second form of commission, that is
25 number (b), is what the Prosecutor in this case calls direct co-perpetration. It's what

1 the Prosecutor calls direct co-perpetration to refer to the same form of commission
2 which the Appeals Chamber simply describes as "commits a crime jointly with
3 another person".

4 The Appeals Chamber also distinguishes it from indirect perpetration, which it
5 addresses as the third form of commission, namely, "indirectly commits a crime".

6 In paragraphs 636 and 637, the Appeals Chamber then deals with the fourth form of
7 commission, namely, indirect co-perpetration, which involves joint indirect
8 commission of crimes, namely jointly using other persons to commit crimes.

9 Therefore, direct co-perpetration is well established in the Court's jurisprudence as
10 a form of commission under Article 25(3)(a).

11 Secondly, this mode of liability is directly reflected in Article 25(3)(a) of the Statute
12 itself. This provision provides expressly for criminal responsibility for a person who
13 commits a crime jointly with another, that is, for co-perpetration. Since Article
14 25(3)(a) further provides also for responsibility for crimes committed through another
15 person, there are thus two variants of co-perpetration. There are thus two variants
16 of co-perpetration, that is direct co-perpetration where contributions to the charged
17 crimes are met through the personal contact of the relevant perpetrator and indirect
18 co-perpetration where contributions to the charged crimes are made by way of the
19 co-perpetrator's use of other persons as tools. Your Honours, the statutory basis for
20 both forms of co-perpetration is beyond question.

21 Thirdly, the Appeals Chamber has already specifically rejected the Defence claim that
22 applying a nominative approach to co-perpetration breaches either Article 22 of the
23 Statute or the principle of *in dubio pro reo* and instead affirmed to the contrary that this
24 approach is well known in international criminal law. Your Honours, I refer your
25 Honours to Lubanga appeal judgment number 2275 at para 471.

1 Moving on to the next issue, at paragraph 603 to paragraph 605 of the Defence closing
2 brief, the Defence argues that circumstantial evidence without direct evidence is
3 insufficient to prove a common plan. The Defence further argues that the
4 Prosecution has failed to produce direct evidence, particularly with respect to
5 meetings, instructions and decisions involving co-perpetrators, and therefore the
6 common plan has not been established.

7 Firstly, co-perpetration does not require that the agreement or the common plan is
8 explicit in order for the individual conduct of each co-perpetrator to be connected.
9 Rather, the agreement or common plan can be inferred from circumstantial evidence.
10 Although direct evidence of the common plan is one form of evidence that may show
11 the existence of a common plan, this is not the only form of evidence legally required
12 to do so. I refer your Honours to the Lubanga trial judgment number 2842 at
13 para 988.

14 Secondly, and to the contrary, a common plan may be proven either directly or
15 circumstantially from the concerted actions of the co-perpetrators or even with third
16 parties and the subsequent conduct of the co-perpetrators. I refer your Honours to
17 the appeals judgment number 2275 in the case of Bemba and four others at
18 paragraph 764.

19 Thirdly, there is no bar to a trial chamber using evidence to infer, either backwards or
20 forward in time, an accused's involvement in a common plan. And I refer your
21 Honours to the Bemba appeal judgment at para 1306.

22 In this case, the Prosecution has demonstrated that a common plan may be inferred
23 from the concerted commission of the crimes as described at paras 124 to 303 of the
24 Prosecution closing brief. Two, from the actions of the co-perpetrators, including
25 those of Said, such as arresting, detaining and violently interrogating perceived

1 Bozizé supporters at the OCRB as described at paras 124 to 303 and paras 304-345 of
2 the Prosecution closing brief. And thirdly, from the subsequent conduct of the
3 co-perpetrators at the CEDAD, including Adam, Tahir and Damboucha, among
4 others, as described at paras 55, 72 to 75 of the Prosecution's closing brief.

5 The Prosecution, your Honours, has therefore demonstrated that Said and other
6 co-perpetrators acted pursuant to a common plan to which they made essential
7 contributions with intent and knowledge.

8 Turning on to the next issue, at paragraph 605 and 610 of the Defence closing brief,
9 the Defence claims that the basis for listing the individuals as co-perpetrators in this
10 case is unclear. In the Defence's view, some individuals who ought to have been
11 included in that list were wrongly excluded.

12 This claim by the Defence is unfounded. It is the Prosecution, not the accused, that
13 determines the scope of the charges for submission to the Pre-Trial Chamber for
14 confirmation based on the evidence available to it. The basis for their inclusion in
15 the list of co-perpetrators is the evidence demonstrating that they were members of
16 a common plan, and that with intent and knowledge they made essential

17 contributions to the common plan to target perceived Bozizé supporters in Bangui by
18 committing the crimes charged in counts 1 to 7 at the OCRB, as described at paras 124
19 to 303, and 304 to 345 of the Prosecution's closing brief. There is no legal
20 requirement that a common plan legally loses validity, merely because some persons
21 who may have been part of it are not named.

22 It is sufficient that there is plurality of persons, regardless of their number or whether
23 every member is named, working in concert with the accused to perpetrate a crime.

24 Indeed, like for joint common enterprise liability, it is not necessary to identify by
25 name each of the persons involved and, depending on the circumstances of the case, it

1 can be sufficient to refer to categories or groups of persons.

2 I refer your Honours to the case of Krajisnik, appeal judgment, paras 156 and 710, and
3 Stakic appeal judgment, para 69.

4 Your Honours, we submit that it is this common plan - * express or implied,
5 previously arranged or materialising extemporaneously - that ties the co-perpetrators
6 together and that justifies the reciprocal imputation of their respective acts. I refer
7 your Honours to Lubanga appeals judgment, at para 445.

8 Turning on to the next issue, at paragraph 607 of the Defence closing brief, the
9 Defence contends that essential contributions cannot be made to the crimes; rather,
10 implying that they can only be made to the common plan.

11 That contention is incorrect. Essential contributions can be made at any stage of the
12 criminal project, which means that it can be made at the planning, preparation or
13 execution stage. See Bemba et al judgment paragraph 810, and Lubanga appeal
14 judgment paragraph 473. A co-perpetrator can thus make essential contributions
15 either to the crimes or to the common plan, depending on the circumstances of the
16 case. The determining factor being that at whatever stage the contribution is made,
17 it is made within the framework or pursuant to a common plan. I refer
18 your Honours to Bemba et al judgment, number 2275 at paragraph 812 and
19 paragraph 824.

20 Where the essential contribution is made to the common plan, for instance, at the
21 planning or preparation stage, rather than at the execution stage, the Appeals
22 Chamber in the Bemba case explains that the Trial Chamber is not required to make
23 a finding that he has also made essential contributions to the crimes. I refer to
24 Bemba judgment at paragraph 812 and 824.

25 So, your Honours, there is nothing in the Court's jurisprudence that says that essential

1 contributions cannot be made to the crimes.

2 In this case, the Prosecution has in its substantive submissions, particularly at

3 paras 305 and 344 of the Prosecution's closing brief --

4 PRESIDING JUDGE SAMBA: [12:00:43] Okay. Just, counsel, just so you know,

5 you've used more than 16 minutes. Just so you're aware, because you shall not be

6 using --

7 MR BIFWOLI: [12:00:53] Yes.

8 PRESIDING JUDGE SAMBA: [12:00:54] -- giving up more time to you --

9 MR BIFWOLI: [12:00:55] Thank you.

10 PRESIDING JUDGE SAMBA: [12:00:55] -- after your 60 minutes.

11 MR BIFWOLI: [12:00:56] Thank you.

12 PRESIDING JUDGE SAMBA: [12:00:57] Thank you.

13 MR BIFWOLI: [12:00:56] Thank you, your Honours, well noted, yes.

14 In this case, the Prosecution has in its substantive submissions, particularly at

15 paras 305 and 344 of the Prosecution's closing brief, demonstrated that Said made

16 essential contributions to the common plan.

17 Consequently, we urge your Honours to find that Said made essential contributions

18 to the common plan.

19 Your Honours, I now turn to the next issue.

20 At paragraph 612 of the Defence closing brief, the Defence contends that the provision

21 of food, weapons or identification badges by Said to the OCRB Seleka does not in the

22 circumstances constitute an essential contribution.

23 They also contend that there is nothing illegal or abnormal about facilitating the

24 provision of these things.

25 Firstly, this assertion is incorrect as it does not accurately reflect Said's essential

1 contributions. The provision of food, badges and weapons by Said plainly forms

2 part of Said's essential contributions and cannot be dismissed as non-essential.

3 Secondly, the essential nature of Said's contribution to the common plan is not solely

4 established by the undisputed facts that he played a key role in the provision of food,

5 identification badges and weapons. Instead, it is founded on the entirety of the

6 evidence relating to the contribution Said made as the highest ranking official within

7 the OCRB.

8 Thirdly, the Defence submission that there is nothing illegal or abnormal particularly

9 about the provision of food and badges is plainly wrong. Essential contribution may

10 take many forms and need not be criminal in nature or made at the execution stage.

11 Acts that do not, as such, form the *actus reus* of the crime or offence in question may

12 nevertheless be taken into account when determining whether the accused has made

13 essential contribution to the crime or offence. I refer your Honours to appeals

14 judgment -- Bemba appeals judgment at para 810.

15 (Counsel confers)

16 MR BIFWOLI: [12:03:56] Your Honours, I now turn to the next issue at paragraph

17 613, 615, 618 to 627 of the Defence, the Defence contends that Said should not incur

18 liability for the crimes committed by the co-perpetrators and in which Said is not

19 mentioned. We submit that as a co-perpetrator it is not necessary for Said to * make

20 an essential contribution to each criminal incident provided that the incidents occur

21 within the framework of a common plan to which Said as a co-perpetrator made an

22 essential contribution with intent and knowledge. I refer to paragraph 812 in the

23 Bemba et al appeal judgment.

24 On the next issue, your Honours, the Defence argument at paragraph 615 of the

25 Defence closing brief, the Defence argues that the Trial Chamber should essentially

1 disregard the evidence of some of the witnesses in relation to the *arbatachar* torture
2 method, simply because those witnesses do not specify the identities of the victims
3 they are talking about. The Prosecution submits that it is not necessary to prove the
4 specific identity of the victim to prove that a crime indeed occurred. I refer your
5 Honours to the Bemba trial judgment at paragraph 88.

6 On the next issue the Defence argues at paragraph 630 to 631 that Said did not have
7 control or authority over the OCRB Seleka.

8 It is our submission that the -- at paragraph 337 to 342 of the Prosecution's closing
9 brief, the Prosecution has demonstrated that Said exercised effective command and
10 control over the OCRB Seleka.

11 Further, the fact that there were a few cases of indiscipline, as suggested by P-0338,
12 does not mean that Said's power and authority over the OCRB Seleka was diminished.
13 P-0338's testimony should be considered cumulatively with the other evidence on
14 record and not in isolation.

15 And, finally, turning on to the issue of intent and knowledge, at paragraph 636 to 638
16 the Defence contends that the Prosecution has failed to demonstrate Said's intention
17 and knowledge. Your Honour, we submit that, as established in the Court's
18 jurisprudence, the mental element can be established on the basis of the totality of
19 evidence, including but not limited to the accused's position in the common plan and
20 his role in and essential contribution to the commission of the crimes. I refer your
21 Honours to Al Mahdi Article 58 decision, para 177, and Bemba et al judgment, para
22 1308.

23 And with that, I conclude my submissions and pass over the floor to Ms Makwaia.
24 Thank you.

25 PRESIDING JUDGE SAMBA: [12:07:46] Thank you very much, counsel.

1 Ms Makwaia.

2 You have about 41 minutes to summarise your submission on behalf of the

3 Prosecution.

4 MS MAKWAIA: [12:08:13] Sorry, Madam President, I didn't have my headphones.

5 How many minutes do we have remaining?

6 PRESIDING JUDGE SAMBA: [12:08:22] You have about 41 minutes, you end at

7 12:49.

8 MS MAKWAIA: [12:08:28] Okay. Thank you, your Honours, and good afternoon.

9 I shall now begin summing up aspects of our case, and for those aspects we will not
10 be able to summarise before you because of time, we adopt our pleadings in the
11 closing brief, Madam President, your Honours.

12 Madam President, during the course of the trial you heard evidence that in late 2012
13 the situation in CAR was precarious and volatile, and intense combat or hostilities
14 were taking place between the FACA and the Seleka coalition; for example, from
15 P-2091, the former prime minister, P-2105. And on that, Madam President, we
16 would like to show you the route that witness 2105 told the Court he took, and
17 subsequently other witnesses, using the same map of CAR to demonstrate the descent
18 into Sibut and then the attack of Bangui on 24 March 2013.

19 Now, what we have before us -- I'm trying to get it on my screen. Your Honours
20 have before you now a map of CAR and I will walk you through it.

21 Now, you heard Witness P-2105 who testified before you that {PFR: (Redacted)}.

22 Transcript T-023, bracket 13, 13-17. During his evidence, you may
23 recall, your Honours, he annotated this map explaining the routes that the Seleka
24 commanders took with their troops on their descent to Bangui.

25 I can now -- can I please have the next slide.

1 Now, P-2101 left Bria and then he went to Bambari. {PFR: (Redacted)}
2 (Redacted)} from Bria to Bambari and he noted that other commanders had also left
3 Bambari ahead of them to go to Sibut, while some were going through the bush and
4 Grimari.

5 P-21 also recounted, your Honours, that when the Seleka columns left Bambari,
6 another column of Seleka with a different command left Kabo, and then another one,
7 Kaga-Bandoro - you can see it before you on the screen to the left - and then through
8 Dekoa to go to Sibut.

9 P-2105 further testified that the aim of all these Seleka groups was to converge into
10 Sibut, transcript 023-23-17-18. At this time, he told you, your Honours, that he was
11 aware that government members had stayed in Sibut and some Seleka leaders were
12 also there, as well as members of the government, as I've stated.

13 He also explained had his testimony that there were South African troops, the CEAC,
14 stationed at Damara. He told you, Madam President, they were stationed at Damara
15 because there was a red line that demarcated the separation between the government
16 troops and the Seleka troops, what was then known as the red line of Damara, and
17 you can see it on the map.

18 He also told you that intense fighting on the night of 23 March took place as the
19 Seleka tried to push forward to Bangui. Another witness who gave evidence on this
20 is P-0342, an overview witness, Madam President, your Honours. You would recall
21 his extensive evidence and his involvement. For identification reasons, I will not go
22 any further.

23 P-342 told you that the Seleka went through different provinces of CAR and of the
24 political negotiations of senior members of the Bozizé government, and the Seleka at
25 Sibut.

Closing Statements

(Open Session)

ICC-01/14-01/21

1 Before you, Madam President, you do have here - and according to the evidence on
2 record, as spoken to by 342 - you do have here a picture of the former president with
3 a red scarf, Mr Djotodia, and to the right you have Mr Nouradine Adam with a green
4 scarf.

5 THE COURT OFFICER: [12:13:46] Can it be shown to the public?

6 MS MAKWAIA: [12:13:49] Yeah. Sorry, yes, of course.

7 P-342 also told you, your Honours, at this point in Damara, the Seleka were amassing.
8 They were meeting up, they were grouping.

9 The witness also recounted that once the Seleka had -- also recounted how the Seleka
10 entered Bangui through various roads coming via Damara, via the Damara road, the
11 Boali road, the Mbaïki road and also on foot through the hills - transcript
12 123 - culminating in the Seleka attack on Bangui of 24 March.

13 Other relevant witnesses to this aspect of the evidence, your Honours, are P-1167,
14 P-0291, P-1263, P-2563, P-2240 and P-0338.

15 Each of these witnesses corroborated a section reflecting their personal interaction
16 with the Seleka army as they moved through the provinces to attack Bangui. What
17 you have before you now, your Honours, is a select -- I think the Defence has an issue.

18 PRESIDING JUDGE SAMBA: [12:15:08] Are you fine now?

19 MS NAOURI: [12:15:09](Microphone not activated)

20 PRESIDING JUDGE SAMBA: [12:15:11] Your mic is not on, so I can't hear you.

21 MS NAOURI: [12:15:15](Interpretation) It's far too fast. We have nothing on the
22 transcript. I'm very sorry about that, but nothing on the transcript.

23 MS MAKWAIA: [12:15:27] I'm running against time.

24 PRESIDING JUDGE SAMBA: [12:15:29] Yes, but you have -- I mean, we need the
25 transcript, and they'll need a transcript to respond to you tomorrow, so ...

1 MS MAKWAIA: [12:15:34] So where shall I take it up again from? Would you like
2 me to repeat?

3 MS NAOURI: [12:15:49](Interpretation) We do not have the pseudonyms, so the list
4 of pseudonyms that you just gave, if you could just actually repeat that, that would be
5 really great. Thank you.

6 MS MAKWAIA: [12:16:00] They'll pop up in a minute as well on the screen, but I'll
7 do that. So the pseudonyms are 1167, 0291, 1263, 2563, 2240 and P-0338.
8 And I had just stated, your Honours, that each of these witnesses corroborated
9 a section reflecting their personal interaction within the Seleka army as they
10 progressed through the provinces to attack Bangui.

11 Now, starting with 1167, a Seleka insider, he told you about the coordination of the
12 Seleka routes leading into Bangui. This witness {PFR: (Redacted)
13 (Redacted)}

14 Sibut because Michel Djotodia was going there and that a meeting with all
15 Seleka officers was going to take place. Transcript T-34-P57:23. He also stated,
16 your Honours, that the decision was made to descend to Bangui to take power
17 subsequently. Transcript T-34, P-43, 9.

18 Additionally, he stated that another Seleka section or column was to go to Bouca,
19 Bossangoa, and Bossembélé, while the second section was to go from Sibut to Bangui
20 via Damara.

21 The witness stated, and I quote, "Bouca had fallen, Bossangoa had been attacked and
22 the section which had attacked Bossangoa was moving on to Bossembélé, and that
23 section was moving on to Bossembélé".

24 This witness, who is an insider, as I've stated, Madam President, also testified that
25 there was a certain amount of resistance at Damara, there was fighting.

1 Transcript -34, P43.22. {PFR: (Redacted)}

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)}. Transcript T-34, P65.

7 The former prime minister of CAR also appeared before you, your Honours, and he

8 provided evidence on the meeting with Djotodia in Sibut. He told you of the

9 intention of pacifying the Seleka and restricting their movements, but the Seleka had

10 issued a 72-hour ultimatum to the Bozizé government, and if their demands were not

11 met, they would take arms again. Transcript T-061, English version, at 31 1-33.15.

12 The prime minister also explained that there were two fronts at this point on the

13 Damara road and another battle on the Bossembélé road. He confirmed that the

14 fighting culminated in the Seleka overthrowing the government of Bozizé on 24

15 March. A crime-based witness, P-1263, was also in Sibut and he could not travel

16 because the Seleka had arrived at Damara where there was a red line, so there was

17 a blockade, so he could not move. He testified because of this red line they were

18 stopped from going into Bangui.

19 Madam President and your Honours would recall the evidence that it wasn't just the

20 Seleka who was banned from crossing the red line at Damara; this also applied to the

21 FACA army. They could not go into the Seleka zone.

22 At this point, Madam President, your Honours, the evidence on record demonstrates

23 CAR was cut almost into two, with the red line separating the two belligerents, the

24 Seleka occupying the northern part and the FACA government or pro-Bozizé forces to

25 the south.

1 The witness also recalled that the Seleka came in vehicles by way of Bambari road and
2 by the Bandoro road in Sibut.

3 P-1263 noted that the Seleka had vehicles and were armed with weapons and were
4 wearing military uniforms -- transcript T-104, English, at page 31.

5 Now turning to P-2563, a Seleka insider, also gave evidence on the movement of the
6 Seleka and the convergence of the Seleka at Sibut, and the red line that stopped them
7 from going beyond. He went there with a Seleka commander he had arrived
8 with from elsewhere.

9 He also spoke about the negotiations that were taking place in Sibut and the meeting
10 between the Seleka chiefs and commanders, including Djotodia, because he was {PFR:
11 (Redacted)}, your Honours.

12 P-224, an official -- P-224, another crime-based witness, gave similar evidence of the
13 events in Sibut and the failure of the mediation between the Seleka and the coalition
14 of the Bozizé government.

15 The failure of the negotiations led to the Seleka crossing the red line at Damara, as
16 stated by the witness at T-032 of the transcript, CAR-OTP-2107-8860-R02, at 8863-8864,
17 paragraphs 13 to 15.

18 Another insider, Madam President, P-0338, recounted a similar situation of the
19 coalition Seleka forces meeting at Sibut, coming from different zones.

20 He also spoke about the red line to you, and other members of government who had
21 subsequently left Sibut to return to Bangui. Now that, Madam President, concludes
22 this aspect on the Seleka and the war crimes and refutes the assertions of the Defence
23 that it was chaotic, it was a coalition of circumstances, it was all impulsive on the side
24 of the Seleka. It was not. There was clear organisation, different Seleka columns
25 and sections converging in Sibut before the planned attack on Bangui ousting

1 President Bozizé on 24 March.

2 At this stage, your Honours I'm going to call on Ms Ndagire to submit to you on the
3 persecution.

4 PRESIDING JUDGE SAMBA: [12:24:55] Thank you very much, counsel.

5 Ms Ndagire, please.

6 MS NDAGIRE: [12:25:19] May it please the Court. In my very brief submissions, I
7 will address count 7 of the crime of persecution charged against Mr Said, and after
8 that, I will speak to the inhumane detention conditions that people were subjected to
9 at the OCRB.

10 The Prosecution has proved beyond reasonable doubt that during the charged period,
11 Mr Said, other senior Seleka members and OCRB Seleka targeted for attack men in
12 Bangui who they considered supporters of François Bozizé. Mr Said and his
13 co-perpetrators did so pursuant to the Seleka's state or organisational policy which
14 was devised by the Seleka and executed by its government officials and elements.

15 The targeted men did not need to show overt partisanship. It was enough that they
16 resided in neighbourhoods perceived to have been associated with Bozizé.

17 Specifically, Boy-Rabe, in the 4th *arrondissement*, and the 7th *arrondissement*. It was
18 sufficient that the men were of the Christian faith and were of the Gbaya, Mandja and
19 Banda ethnic groups, all of which the Seleka perceived to support Bozizé. It was
20 also sufficient, your Honours, that the men were former FACA or members of the
21 presidential guard when Bozizé was president of the Central African Republic or that
22 they worked for him in other functions during that time.

23 Mr Said endorsed this persecutory campaign through his own words and actions
24 towards the men detained at the OCRB. He personally handcuffed Witness P-3056,
25 placed a plastic hood on his head and interrogated him for two to three hours about

1 his ethnicity and alleged connections with Bozizé and about a member of the
2 Anti-Balaka. This was at transcript T-20.

3 Mr Said personally interrogated and threatened Witness P-2692 nearly every day for
4 the almost three weeks that he was detained at the OCRB to establish if he was related
5 to a member of the Anti-Balaka. This is at paragraph 31 of that witness's statement.

6 Mr Said's co-perpetrators at the OCRB also endorsed the persecutory campaign
7 through their own words and actions to the men detained at the OCRB. For instance,
8 Witness P-1743 testified at transcript 87 that as the OCRB Seleka whipped his bare
9 back which they covered with sand and water, they said to him, and I quote: "You
10 there. You and Bozizé, you reigned for 10 years and what did you do that was good
11 for the country? You reigned alongside Bozizé for 10 years and what did you do
12 that was good in any way to dare to drive us out?"

13 Witness P-0481 at transcript 72 testified that Nouradine Adam, Mr Said's superior,
14 interrogated him regarding his association with Bozizé and that the OCRB Seleka
15 then severely beat and burnt him with hot plastic.

16 Witnesses P-0547 and P-0622 confirmed that to the Seleka, perceived Bozizé
17 supporters were animals and mercenaries who they were going to kill.

18 Witness P-0622 and his colleagues were harassed on account of where they worked
19 and were referred to by the OCRB Seleka as "*les gens de Bozizé*".

20 The evidence and testimonies summarised at paragraphs 130 to 250 and 259 of the
21 Prosecution's closing brief show that most of the men who were subjected to the
22 charged crimes were of Gbaya, Mandja and Banda ethnicity. The evidence
23 summarised at those same paragraphs of our brief also show that at least 15 men -- 15
24 of the men who were subjected to the charged crimes were Christians.

25 Witness 2692 relayed in paragraph 20 of his statement that he overheard the Seleka,

1 whilst taking him to the OCRB, blame Christians for having ruled the country for 50
2 years. This sentiment was also echoed by Michel Djotodia, then president, according
3 to the testimony of Witness P-0291.

4 The evidence and testimonies summarised at paragraphs 57 to 64 and 296 to 297 of
5 our brief -- closing brief all confirm that in April and August 2013, the Seleka targeted
6 for attack the residents of Boy-Rabe in the 4th *arrondissement* and those of the 7th
7 *arrondissement* because former FACA or members of the presidential guard lived
8 there.

9 The Seleka's disdain for these neighbourhoods is also evidenced through the
10 dehumanising language that the Seleka used to refer to the residents of Boy-Rabe
11 during these attacks. A witness recounted how Mr Said's superior, Nouradine
12 Adam, warned Boy-Rabe residents to stop with their stubborn behaviour and said,
13 quote, unquote: "If they don't stop one day I will burn this neighbourhood."
14 Another witness recalled that a Seleka commander named Kondo warned Boy-Rabe
15 residents that if the culprits who fired shots at the National Assembly during
16 Mr Djotodia's inauguration did not come forward, quote, unquote: "[...] the lizards
17 will be confused with the trees." A meaning that was civilians would be attacked
18 along with the military. This is at paragraphs 43 to 44 of CAR -- statement
19 CAR-OTP-2074-2965.

20 Seleka soldiers also told Boy-Rabe residents that they were of less value than chicken.
21 It is irrefutable, your Honours, that none of the witnesses' testimonies and accounts in
22 paragraphs 130 to 250 in our brief were detained at the OCRB -- who were detained at
23 the OCRB, nor those who were attacked during the Seleka operations in April and
24 August of 2013, took part in any hostilities.

25 Mr Said and his Seleka co-perpetrators systematically targeted the men they

1 subsequently detained at the OCRB during the charged period, persecuting them on
2 intersecting political, ethnic, religious and gender grounds.

3 The intersectional nature of discriminatory targeting is acknowledged by this Court in
4 paragraphs 787 and 936 of the trial judgment in the case of Prosecutor v.

5 Abd-Al-Rahman. We invite this honourable Chamber to make a similar finding to
6 Abd-Al-Rahman and convict Mr Said for the crime of persecution committed against
7 the people who were detained at the OCRB during the charged period.

8 I now turn to the inhumane detention conditions that the people held at the OCRB
9 were subjected to.

10 The multiple testimonies and documentary evidence before your Honours establishes
11 that detention conditions were deplorable. Detainees were cramped into dark, hot
12 cells in the compound or courtyard of the OCRB and others were detained in a dark
13 and filthy underground cell beneath Mr Said's office in the main building.

14 The evidence summarised at paragraph 257 of our closing brief establishes that at
15 least 25 men were detained in the underground cell, that you now see on your screens
16 to the left, throughout the charged period.

17 Witnesses P-3056, P-3053, P-3064, and P-2400 at transcripts 20, 30, 74 and 75 all
18 testified about their lived experiences having been personally detained in this
19 underground cell at the orders of Mr Said.

20 Witnesses P-2179, P-2400, P-3056, P-3064, and P-0547 described that the underground
21 cell beneath Mr Said's office was dark and filthy, infested with cockroaches, lizards,
22 human excrement, and had an unbearable smell. Not only does this underground
23 cell symbolise how Mr Said and the OCRB Seleka severely deprived the liberty of the
24 people they detained at the OCRB, it is a stark reminder of Mr Said's close proximity
25 to the charged crimes, which he cannot convince a reasonable Chamber he was

1 unaware of.

2 The evidence before you shows that while Mr Said was in charge of the OCRB during
3 the charged period, people detained there did not receive medical attention.

4 During his detention, Witness P-2400 did not receive any medical care from Mr Said
5 or the OCRB Seleka for the bruises and bleeding head injury he sustained while being
6 held at another Seleka base in Bangui.

7 Witness P-0547 was tortured and cruelly treated by the Seleka at the OCRB over
8 whom Mr Said had command. The OCRB Seleka later mocked 0547 because he
9 could not physically get out of the underground cell due to the severity of his injuries.

10 Your Honours heard evidence that detainees in the underground cell could not leave
11 or get out at will. Witness 547 recalled how on one occasion he and his co-detainees
12 negotiated with the Seleka guarding the underground cell to let them out in order to
13 have something to drink or take medication. On that occasion, the Seleka permitted
14 the detainees to come out because Mr Said was not at the OCRB. But when Mr Said
15 returned and found the detainees outside, he instructed them for -- for them to be
16 returned to the underground cell immediately. And this was in the testimony
17 provided in transcript 13, and transcript 16.

18 The conditions in the cells within the OCRB courtyard were equally dismal, your
19 Honours.

20 Witness P-0622 recounted that the cell he was detained in was overcrowded, such that
21 it was impossible to lie down on the ground.

22 Witness 2692 recounted in order to sleep, detainees in his cell had to lie on their sides,
23 head to toe, and take turns with those that were sitting on the ledge along the wall of
24 the cell. This is at paragraph 29 of his statement.

25 Witness P-2263 recounted that there was no water or place to relieve oneself inside

1 the cells and that the toilet outside was full of faeces. The OCRB Seleka gave P-2263
2 and his co-detainees empty water bottles in which to urinate.

3 Witness P-0481 testified at transcript 72, that the OCRB Seleka bound his hands for
4 the first 10 days he was detained at the OCRB. His hands then remained bound
5 while he slept and even when he needed help from another detainee to ease himself
6 in a bucket within the cell where he was detained. This is at transcript 72, pages 31
7 to 33.

8 PRESIDING JUDGE SAMBA: [12:40:26] You have about 10 minutes more, counsel.

9 MS NDAGIRE: [12:40:33] Thank you.

10 The evidence on record establishes that the detainees at the OCRB were not provided
11 with adequate food or water. Witnesses P-1429, P-2931, P-3056, P-3064, and P-2337
12 told your Honours that some detainees at the OCRB relied on their families to
13 provide them with food. However, Witness P-0622 and his cellmates had no choice
14 but to drink their own urine in order to survive and avoid dying of thirst. This was
15 relayed by the witness at paragraphs 59 and 62 of his statement.

16 The evidence establishes that Witness P-2241's right to liberty was violated on account
17 of her detention at the OCRB for two weeks on no charge made known to her.

18 Despite her poor health and medical condition, Witness P-2241 was not provided any
19 medication by Mr Said or the OCRB Seleka for the duration of the time she spent at
20 the OCRB. And despite her family paying a ransom to Mr Said, Witness P-2241 was
21 not released. I refer your Honours to the English transcript of the witness at
22 transcript 48.

23 Witnesses P-3056, P-3053, P-3064, P-2400, P-2179, P-0547, P-0622, P-2692, P-2263,
24 P-0481, P-1429, P-2931, P-2337, P-2241 and P-2339 all gave credible, reliable and
25 coherent accounts about how dire and inhumane the detention conditions at the

1 OCRB were from their own observation and/or lived experience. They all confirm
2 that the conditions were not fit for human beings, depriving them of their most basic
3 rights and subjecting them to severe physical and mental suffering.
4 This Chamber must therefore find Mr Said guilty in respect to count 1 on the premise
5 of his role at the OCRB, his participation in and proximity to the crime of
6 imprisonment or the severe deprivation of liberty of the aforementioned people who
7 were detained at the OCRB.

8 I now invite Ms Makwaia to provide our concluding remarks. I thank you.

9 PRESIDING JUDGE SAMBA: [12:43:59] Thank you very much, counsel.

10 Ms Makwaia, please, you have about five minutes to conclude.

11 MS MAKWAIA: [12:44:11] Thank you, Madam President, your Honours.

12 From the evidence led, from the 81 witnesses presented before you, it is
13 incontrovertible, Madam President, that Mr Said was at the OCRB, was a Seleka
14 colonel, was the *de facto* leader at the OCRB between April and August 2013, when it
15 was disbanded. It is also incontrovertible from the evidence led, Madam President,
16 your Honours, that at the OCRB, individuals were held, they were detained in an
17 arbitrary manner without due process.

18 Similarly, your Honours, it is incontrovertible, a very -- in a very proximate of
19 Mr Said's office, there was an underground cell. Ms Ndagire just showed you some
20 of the slides where people were held and treated in the most abhorrent of manners.
21 The evidence also shows, Madam President, your Honours, that Mr Said was in full
22 command, was in full control of the OCRB when he led it. He was not a mere
23 volunteer, he was not a mere support staff as the Defence of Mr Said would have you
24 believe.

25 Having said that, your Honours, we thank you for listening to our submissions today

1 and respectfully request that you find Mr Said guilty of the charged crimes from
2 count 1 to 7. The Prosecution has the onus, the Prosecution has the burden to prove
3 its case beyond a reasonable doubt, and it is our submission we have done so.

4 Thank you, Madam President, Your Honours. We remain available for any
5 questions.

6 PRESIDING JUDGE SAMBA: [12:46:21] Thank you very much, counsel.

7 And thanks to the Prosecution team.

8 With the accommodation of the Registry, and of course the Defence, we are going to
9 ask Ms Pellet to make your own submission on behalf of the victims of the crimes as
10 charged. Ms Pellet, please.

11 MS PELLET: [12:46:45](Interpretation) Thank you, your Honour.

12 Madam President, Your Honours, today, we speak on behalf of 32 victims. We have
13 had the honour and the responsibility of representing these people throughout the
14 entire trial and, more generally speaking, we have been the ones who gave a voice to
15 those who suffered in silence for more than 12 years.

16 These victims have been waiting for this moment since the year 2013, whether they
17 are participants in these proceedings or whether they were excluded. The lives of
18 these women and men were broken forever within the OCRB, the Central Office for
19 the Repression of Banditry, a facility that was under the control of the Seleka and the
20 accused person, Mahamat Said Abdel Kani.

21 The victims have waited for more than a decade for their voices to be heard. They
22 await the truth, they await recognition, they await justice.

23 These victims were not combatants, they were not criminals, they were mere
24 civilians - mothers, fathers, students - arrested, tortured and, in some cases, killed,
25 merely because they were perceived as opponents to the regime that emerged when

1 the government was overthrown on 24 March 2013.

2 What had they done wrong? They had merely lived in Boy-Rabe or they were from

3 the Gbaya ethnicity, or they were Christians, they wore a FACA uniform, they had

4 worked under the government that had been overthrown, or they were suspected of

5 having been linked to the writing or distribution of leaflets calling for Djotodia to step

6 down, or perhaps they had just been in the wrong place at the wrong time.

7 Allow me to remind the Bench of the fundamental role of victims before the Court.

8 Article 68(3) of the Rome Statute grants them the right to take part in proceedings

9 when their personal interests are involved. This right is not incidental in nature, nor

10 is it symbolic. It is essential. It lies at the very heart of this Court's mandate.

11 The victims are not mere spectators watching a criminal trial unfold, nor should they

12 be. They are not a second Prosecution either. They have their own voice, a unique

13 perspective. One cannot challenge their legitimacy. Their participation is a vector

14 of truth, justice and reparation. Their participation could have allowed you to

15 understand the crimes in all their humanity, in all their complexity, yet in this case,

16 you reduced the role to a mere formality. * You adopted an overly restrictive

17 approach, restricting their participation to the sole incidents mentioned as examples

18 in the decision confirming the charges.

19 Yet, the participation of victims before this Court is not a privilege that is granted

20 depending on the circumstances. Rather, it is a fundamental right that must be

21 exercised with dignity in a respectful way, and with consistency.

22 You excluded victims, even ones who had been detained at this OCRB during the

23 period of time covered by the charges. Some had been arrested and mistreated by

24 the accused person himself. Others had been participating victims but then their

25 status was withdrawn, even though their credibility had not been questioned.

1 This approach, your approach, Madam President, your Honours, deprived these
2 proceedings * of a wealth of information, that of the victims' experiences and their
3 necessary contribution to the search for the truth.
4 And, yet, even though the victims have been set aside, they still believe in this Court.
5 They hope that you will hear their voices. They hope that you will recognise their
6 suffering. They hope that you will render justice. And they hope, once again, that,
7 ultimately, one day, finally, they will have the opportunity for their voices to be
8 heard.

9 Mr Dibert-Bekoy will now continue with a summary of the victims' views and
10 concerns.

11 MR DIBERT-BEKROY: [12:52:50](Interpretation) During a recent trip to Bangui, the
12 victims who took part in these proceedings expressed their expectations, their
13 ongoing suffering and their wishes for the judgment to come. Despite the diversity
14 of what they went through, one single message comes through clearly: They want to
15 be heard. They want to be recognised. They do not wish to be forgotten.
16 Some have stressed just how important it is for the Chamber to take into account the
17 reality of what they experienced. Victim a/70 297/22, quote: "It's important for the
18 judges to remember what the victims experienced when they retire to come to
19 a decision."

20 Other victims stressed that their suffering was not limited in time or by the legal
21 boundaries of this particular case.

22 Victim a/70 303/22 said this: "I'm alive, but the suffering continues".

23 Whereas, victim a/70 294/22 has said, "The victims health is deteriorating as the years
24 have gone by".

25 Several victims have expressed their deep disappointment in light of the limited

1 scope of this case. They feel as though an imperfect form of justice is being handed
2 down, because other crimes committed by the accused person were not looked at.

3 * For example, victim a/300 04/24 said, and I quote: "The victims were forgotten and
4 those who were guilty have been rewarded".

5 Victim a/70 299/22 added this, quote:

6 * " I want to regain a sense of peace through the conviction of the accused. The
7 victims were the ones who experienced the reality of what happened. They truly
8 hope for justice to be done so that an example is set for

9 other criminals." * For many of them, stigmatization remains a daily reality. Victim
10 a/70 295/22 explains that — and I quote: 'Victims are stigmatized. People think they
11 were arrested because they had done something wrong,' which prevents them from
12 finding a job and reintegrating into their own community.

13 Many victims are still living with the psychological damage of the torture and the
14 violence and the terror that the accused person imposed upon them. Witness a/70
15 290/22 said this, quote:

16 "I remember the torture I was subjected to. I feel uncomfortable with the past."

17 Victim a/70 311/22 said that he becomes agitated each time he thinks back to the
18 events. Other victims -- for example, a/70 293/22 stress that, quote:

19 "The suffering of victims must be recognised. This suffering cannot be forgotten."

20 End of quote. And several victims had specific views about the role of the accused.

21 Victim a/70 313/20 said quite clearly:

22 "Said hit me, he can't be acquitted. That would be impossible." Victim a/70 298/22
23 said in relation to the barbaric acts that were perpetrated upon him, he said this:

24 "The accused must realise what he did." End of quote. And finally, victim a/300

25 60/22 has summed up the viewpoint of many, quote: "The accused should walk in

1 our shoes. We are human beings, we're not animals." End of quote.

2 And behind each account from the victims, we find a path, a path of resilience, and

3 often this is a lonely path. Victim a/70 289/22 expressed the pain of having to live

4 alongside the people who persecuted him, quote: "We are trying to live with our

5 enemies. Every day we bear the burden of the torture that we were subjected to. * It

6 is very important to recognise our status as victims in the face of our torturers."

7 Finally, despite all the wounds, there remains a glimmer of hope: justice. As

8 expressed by a/70 299/22 — and I quote: 'I want justice to be done. I have confidence

9 in the justice of the Court.' Ms Pellet shall now continue with the final conclusions

10 made on behalf of the victims.

11 MS PELLET: [12:58:34](Interpretation) The evidence that has been brought before

12 this Court is staggering. It is specific, consistent, the evidence has been corroborated.

13 The evidence speaks to a systemic campaign of terror orchestrated by the Seleka and

14 carried out under the command of Colonel Mahamat Said Abdel Kani at the OCRB.

15 In the past, the OCRB was an institution for law enforcement. Under Mr Said it

16 become a torture site where civilians were detained arbitrarily, beaten, tortured and

17 killed.

18 Madam President, your Honours, chaos did not reign at the OCRB. Mr Said was

19 there every day. He checked what was going on there. He held meetings, he gave

20 orders, he approved torture. He watched as people were beaten up. He collected

21 the ransoms. He was not just a spectator, he was the man who built the suffering

22 inflicted upon the victims. * He was the architect of the suffering inflicted on the

23 victims. * The Defence has attempted to place doubt in your minds. But speculation,

24 Madam President, Your Honours, cannot constitute reasonable doubt. The Defence

25 has not challenged the essential facts. The Defence has not adduced evidence to refute

1 the crimes. The Defence merely focused its argument on a political interpretation of
2 the context in the Central African Republic at the time of the events, viewed through a
3 Western lens, and focused on the personal backgrounds of the witnesses. But the
4 truth remains. The victims were detained. They were mistreated. The victims
5 were tortured. The victims were killed, and Mr Said was the one running the show.

6 * The evidence demonstrates that these actions did not result from isolated behaviour
7 by uncontrolled subordinates. They followed a pattern, a policy of control through
8 terror. The OCRB was an essential part of the Seleka's domination over Bangui.
9 And I stress, the OCRB was commanded by Mr Said.

10 Madam President, your Honours, the restrictive approach taken by the Chamber in
11 relation to the participation of victims has been deeply painful. For many
12 victims -- the many victims have been excluded despite clear-cut links to the crimes.
13 Their voices have been silenced. People have ignored their suffering and yet they
14 still believe in this Court. They still believe in you.

15 The victims we represent are not calling for revenge. They seek to understand.
16 They want to know why they were arrested, beaten, tortured, humiliated. Why their
17 loved ones were abducted or executed, sometimes before their very eyes. The
18 victims want the dignity stolen from them at the OCRB is finally restored to them
19 here in this courtroom, in your judgment. The victims want that their children can
20 live in peace. They know justice will not erase their pain but they hope it can, at
21 least, give it some meaning.

22 Madam President, Tars van Litsenborgh will continue, so I will give him the floor
23 now.

24 MR VAN LITSENBORGH: [13:03:57](Interpretation) Madam President, your Honours,
25 the crimes committed at the OCRB were not isolated crimes. They form part of

1 a coordinated plan executed intentionally. The rise of the Seleka was built through
2 violence. Their power was built on fear. The evidence shows the existence of
3 a policy aimed at targeting civilians. The victims suffered physically,
4 psychologically, materially.

5 As recalled by counsel Dibert-Bekoy, they live with scars, trauma and losses. They
6 lost their homes, their livelihoods, their loved ones. They were humiliated,
7 stigmatised and overlooked. But today they are here standing and they ask you one
8 thing: recognition. They ask you to declare Mahamat Said Abdel Kani guilty on all
9 counts.

10 Madam President, your Honours, justice is not limited to punishment. It also carries
11 recognition with it. It brings dignity. * It is a guarantee that what happened at the
12 OCRB will never happen again. The victims have done their part; 84 per cent of
13 them have testified. They have relived the horror. They have put trust in the Court.
14 They have placed their pain in your hands. The testimonies converge. The
15 detention conditions at the OCRB were inhuman. Detainees were crammed into tiny
16 cells without light or air, lying directly on a cement floor, deprived of water, food and
17 medical care.

18 Many had to relieve themselves in buckets emptied each morning under the watchful
19 eye of armed soldiers. Some described hunger, thirst, stench and despair. * Others
20 spoke of the cold, the constant fear and the impossibility of sleeping because they
21 knew that each night a detainee would be taken away to never return. Physical
22 abuse was daily: beatings, rifle-butt blows, burns, handcuffs tightened until they bled.
23 Amongst the most atrocious methods was the so-called *arbatachar*, in which the arms
24 and legs of the victims were tied behind their backs * until their limbs were dislocated
25 or blood circulation was rapidly cut off, causing paralysis of the limbs. This method

1 imported by the Seleka was practised with the approval, if not under the direct gaze,
2 of the accused.

3 The victims have done their part. Now it is your turn to do yours, Madam President,
4 your Honours. The victims are not asking for the impossible. They're not asking
5 for the past to be erased. They simply ask that it be acknowledged. The victims
6 know that the decision belongs to the Chamber. But they hope your judgment will
7 reflect the truth of their experience and it will send a clear message, that is, human
8 dignity cannot be trampled upon with impunity regardless of where it is in the world
9 or by whom.

10 And now Sarah Pellet will conclude our final observations on behalf of the victims.

11 MS PELLET: [13:09:17](Interpretation) Madam President, your Honours, we humbly
12 submit that the evidence establishes beyond reasonable doubt the criminal
13 responsibility of Mahamat Said Abdel Kani for the crimes charged. The victims ask
14 you to find him guilty for all counts, but they also ask you to fully consider the harm
15 that they have suffered. The crimes for which the accused is tried only cover a few
16 months, only April to August 2013, but their suffering will last their entire lives.
17 Their injuries, be they visible or invisible, escape the constraints of a judicial calendar.
18 Madam President, your Honours, there are no small cases before this Court, neither
19 temporal nor geographic limits, nor the number of victims admitted to participate can
20 take away from its importance. Each victim of crime within this Court's jurisdiction
21 carries the traces of a broken world. They remind us that international criminal
22 justice is not only measured -- or is not measured by quantity, but rather by the depth
23 of pain it recognises and strives to repair.
24 Some victims confided, as we have already told you, their sorrow that parts of what
25 they lived through could not be examined by this Court. They understand the legal

1 constraints, but nevertheless deep, deep down inside they feel that their story remains
2 incomplete until all the crimes and suffering they endured are acknowledged. And
3 they continue to suffer today. This needs to be acknowledged.

4 * Finally, the victims hope that this judgment, your judgment, will send a message to
5 all those who think they can torture and kill with impunity; that it will be a step
6 towards their recovery.

7 This concludes, Madam President, your Honours, the submissions made on behalf of
8 the victims. Thank you.

9 PRESIDING JUDGE SAMBA: [13:12:30] Thank you very much, Ms Pellet, for your
10 submissions on behalf of the victims.

11 We wish to assure you that we have not forgotten the victims. Our job is to balance
12 the rights of the victims and their alleged suffering with procedural correctness,
13 together also with the rights of the accused. And as I say, this does not mean that
14 the victims are forgotten.

15 I thank you all for today's submissions, that is the Prosecution and the representatives
16 for the victims, all three of you. And with that, we adjourn today's hearing till we
17 meet again tomorrow at 9.30, when we shall hear counsel -- maybe one or two counsel,
18 or three counsel for the Defence on behalf of Mr Said.

19 So with that, I rise the Court for 9.30 tomorrow. Thank you.

20 THE COURT USHER: [13:13:37] All rise.

21 (The hearing ends in open session at 1:13 p.m.)