International Criminal Court

Trial Chamber VI

Situation: Central African Republic II

In the case of The Prosecutor v. Mahamat Said Abdel Kani - ICC-01/14-01/21

Presiding Judge Miatta Maria Samba, Judge María del Socorro Flores Liera,

Judge Sergio Gerardo Ugalde Godínez and Judge Keebong Paek

Sentencing Hearing - Courtroom 1

Tuesday, 10 November 2026

(The hearing starts in open session at 9.31 a.m.)

THE COURT USHER: [9:31:42] All rise.

The International Criminal Court is now in session.

Please be seated.

PRESIDING JUDGE SAMBA: [9:32:16] Good morning, everyone.

Can the court officer please mention the case.

THE COURT OFFICER: [9:32:25] Situation in the Central African Republic, in the case of The Prosecutor versus Mahamat Said Abdel Kani, case reference ICC-01/14-01/21.

And for the record, we are in open session.

PRESIDING JUDGE SAMBA: [9:32:38] Thank you very much, Mr Court Officer.

Can I ask for representation, please, starting with the Prosecution.

MS MAKWAIA: [9:32:49] Thank you, Madam President. May it please the Court.

For the Prosecution this morning, myself Holo Makwaia, senior trial lawyer; Thomas Bifwoli, Brunhild Le Bailly, trial lawyers; Anusha Rawoah, trial lawyer; Sanyu Ndagire, assistant legal officer; Richard Nsanzabaganwa, international cooperation adviser; Hilary Dyer, analyst; and Mr Thomas Laugel, our case manager.

Thank you.

PRESIDING JUDGE SAMBA: [9:33:26] Thank you very much, counsel.

For the victims, please, Ms Pellet.

MS PELLET: [9:33:32](Interpretation) Thank you, Madam President. The victims are represented by Adeline Bedoucha, Tars Van Litsenborgh, Ana Peña, and myself, Sarah Pellet, counsel at the Office of Public Counsel for Victims. Thank you.

PRESIDING JUDGE SAMBA: [9:33:54] Thank you very much, Ms Pellet.

And Mr Jacobs for the Defence, please.

MR JACOBS: [9:34:00](Interpretation) Good morning, Madam President, your Honours. Next to me, Maître Florian François-Jacquemin, Fiana Gantheret; behind me, Emma Conty, Emma Roux Hoock and Rose Duthilleul; and myself, I am Dov Jacobs, counsel for Mr Said.

PRESIDING JUDGE SAMBA: [9:34:24] Thank you very much, Mr Jacobs.

And for the record, I do take note that Mr Said is here in Court with us.

A very good morning to you, Mr Said. I hope I see you well.

MR SAID: [9:34:36](Interpretation) Yes. Good morning, Madam President.

PRESIDING JUDGE SAMBA: [9:34:43] Good morning.

I welcome everyone in and around the courtroom, as well as those following this hearing online, in particular those in the Central African Republic. This is the hearing in the case -- in this case on sentencing under Article 76 of the Statute of the Court.

In light of the fact that no evidence will be presented in court today, this hearing is limited to receiving oral submissions of the parties and participants on sentencing.

As set out in the Decision on additional evidence concerning sentencing and scheduling the sentencing hearing, the scheduling decision, we will start with the

Prosecution, which has been allotted 60 minutes to make its submission in the first session. In the next session, we will hear from the Common Legal Representative of Victims, who has been given 30 minutes for her submissions. The Chamber will then adjourn for the day and, in the first session tomorrow, we will hear from the Defence, which has also been allotted 60 minutes. The Chamber may then ask questions and there will be an opportunity for any reply or replies in the next session, subject to the Chamber's authorisation, for 30 minutes.

Now, before I turn to the Prosecution, I have a few housekeeping matters to bring to your attention. The Registry will be monitoring the time and will inform the Chamber when the allotted time is due to end. Furthermore, as previously stated in the scheduling decision, the Chamber expects the parties' and participants' submissions to be in public session. In this regard, the Chamber recalls its directions in relation to the closing briefs in which it allowed the parties and participants to refer to confidential information as long as doing so does not lead to the identification of protected witnesses or otherwise compromise their security.

Now, noting that the Defence may wish to raise matters that concern Mr Said's individual and family circumstances, for which private session may be warranted, the Chamber directs that any resort to private session must be at the end of the Defence's submissions so as to limit the impact on the public.

Lastly, I remind everyone of the importance of speaking slowly for the interpreters and court reporters.

With that, I give the floor to the Prosecution.

MS MAKWAIA: [9:38:08] Thank you, Madam President, your Honours.

On 23 September this year, this Chamber convicted Mr Said, Mr Mahamat Said Abdel Kani, on four counts of crimes against humanity, imprisonment, or severe deprivation

of physical liberty, torture, other inhumane acts, and persecution. Your Honours, these crimes were systematically orchestrated and executed by Mr Said and the OCRB Seleka between May and August 2013 at the *Office Central de Répression du Banditisme* - going forward I will just use the acronym OCRB - in Bangui, the Central African Republic.

Your Honours, we speak about numbers, we speak about numbers of counts and numbers of victims. In doing so, we lose the individual human faces behind those figures. We risk not seeing the impact the crimes have had on their family members and their extended communities. The impact of these crimes, your Honours, we submit, is intergenerational.

What happened at the *Office Central de Répression du Banditisme*, the OCRB, was systemic brutality. We must remember the victims. We must remember the survivors. We must remember their families and their community. The evidence you heard throughout this trial, Madam President, your Honours, was not an abstract act. It is the living reality of the people in the Central African Republic whose lives were affected, some permanently fractured under Mr Said's *de facto* rule, under Mr Said's command of the Seleka at the OCRB.

Your Honours, when we say "imprisonment under Count 1," let us look at the courtyard cells and that putrid underground cell buried under his office. Let us recall the graphic words of witnesses such as P-3056, who described how they were packed so tightly in a 4x4 cell that they could not lie down. They were plunged into near total darkness, drowning in stifling stench, forced to eat, urinate, defecate and sleep in their own accumulating waste.

Your Honours, when we say "torture under Count 2," let us visualise the arbatachar manner, let us visualise the arbatachar torture method, which Mr Said actively

endorsed. This was a calculated refinement of physical pain, binding a man's hands and elbows and his feet tightly behind his back until his spine arched in an unnatural way, straining ligaments to the breaking point, tearing flesh, your Honours, and inducing sudden excruciating paralysis. Your Honours heard and saw the physical damage, the deep permanent lacerations into the flesh of survivors such as Witness P-054.

But, your Honours, the physical wounds are only half of the story. This Chamber must weigh the profound, lingering psychological trauma that continues to affect these communities over a decade later.

We heard of fathers beaten and humiliated in front of their wives and children, permanently stripped of their domestic standing and authority. We heard of survivors who could not close their eyes at night because they were continuously haunted by the images of what they saw and witnessed inside the OCRB when they were detained there. For these people, your Honours, the Seleka takeover of power did not bring good governance; it brought unchecked, discriminatory misery.

Mr Said's defence has consistently sought to paint him as a peripheral actor, operating in an environment of pre-existing systemic chaos. The evidence you heard, the evidence you pronounced your judgment upon, soundly rejects this misleading narrative. The Trial Judgment, your Honours, is replete with findings that you made of his central and active significant role at the OCRB.

Your Honours, it's our submission that sentencing is not an abstract mathematical exercise. As this Court has consistently articulated from Lubanga to Abd-Al-Rahman, sentencing represents the solemn proclamation of the international community's utter condemnation of crimes that shock the conscience of humanity.

Madam President, your Honours, the Prosecution respectfully submits that the

extreme gravity of the crimes for which Mr Said is convicted, his central role as direct -- as direct co-perpetrator, the presence of multiple aggravating circumstances, and the absence of mitigating factors warrant a severe sentence.

As detailed in the Prosecution's Sentencing Brief, our submission is grounded upon a holistic assessment of the multi-layered criminality established in the Trial Judgment, the high degree of direct participation and intent displayed by Mr Said underpins the request for a severe sentence.

Your Honours, the Defence argues that rehabilitation of Mr Said must form the apex of your deliberations. While rehabilitation remains a recognised aspiration within the statutory framework of our Statute, we submit that it is at the enforcement stage that rehabilitation and such factors should be considered. Further, your Honours, the established jurisprudence of this Court is clear, rehabilitation should not be used to dilute, rehabilitation should not be used to minimise the retributive and deterrent weight of a sentence.

Having said that, your Honours, I would now -- I would now like to make submissions and I will give you my road map in how I intend to proceed. It's shown on the screen before you.

I shall first address the gravity of the crimes before turning to Mr Said's degree of participation and intent. I will then discuss the aggravating circumstances and the lack of mitigating circumstances, before addressing some of the pertinent issues raised in the Defence sentencing -- written sentencing submissions, as instructed by your order.

Starting with the extreme nature and the gravity of the -- of the crimes.

Your Honours, the gravity of the crimes committed under Mr Said, we submit, is extremely high.

Let us look at the findings established by this Chamber in relation to the crime of imprisonment or severe deprivation of physical liberty.

Your Honours found that 39 victims -- at least 39 victims were systematically subjected to arbitrary arrest, unlawful imprisonment, and continuous physical and psychological mistreatment.

That the OCRB operated -- operated as a -- that the OCRB, which was operated as a detention facility, lacked constitutional protections. These, your Honours, were dramatically obliterated by Mr Said and his subordinates. Detainees were brought in without valid arrest warrants. Detainees were arrested without being given any genuine reason or justification for their arrest. Detainees were stripped of their right to legal counsel. Detainees were hidden from the independent scrutiny of prosecutors whilst held in an arbitrary manner at the OCRB.

Let us also look at the means employed by Mr Said and his subordinates at the OCRB. These, we submit, your Honours, were characterised by particular cruelty. Mr Said and his subordinates went about in a very particular manner to inflict levels of pain and harm on the persons they arrested and detained at the OCRB. These individuals, your Honours, were helpless and defenceless. They were systematically subjected to the arbatachar method. As your Honour heard and found in the judgment, whilst an individual is immobilised in this position, they undergo agonising and extreme pain. These individuals, when arrested, were whipped, beaten by different instruments, including rifle butts, and were subjected, your Honours, to continuous psychological terror, including explicit death and rape threats.

Now, looking at where these acts occurred, the physical location.

We submit, your Honour, the physical location of the crimes committed underscores their gravity. While some detainees were packed into courtyard cells that were so

overcrowded that they had to sit between each other's legs to fit into the small space, others had to take turn to sleep, and others faced an even worse fate. These were forced down into the underground cell, which was cramped, dirty, insufficiently ventilated, and to make matters worse, your Honour, immediately under the nose, immediately under the office of Mr Said. There, in darkness, they breathed -- they had air full of stench and putrid for breathing. They slept on a floor covered in human excrement and other waste.

These crimes, your Honours, had a devastating socio-economic impact. The socio-economic impact rippled outwards fracturing entire families who had to pay the extortionate ransoms demanded by the OCRB Seleka to buy their loved ones.

And your Honours, before you, you have the inside -- before you on the screen, you have a photograph showing the inside of the notorious underground cell immediately underneath Mr Said's office.

The socio-economic devastation rippled outwards, fracture -- fracturing entire families who had to pay the extortionate ransoms demanded by the OCRB to buy, your Honours, their loved ones' freedom.

Furthermore, Mr Said and his elements applied a deliberate strategy of public humiliation of the victims, such as beating of victim P-1743, which was done, your Honours, in front of his family members, rendering him -- stripping him of his dignity. Such public humiliation shattered the standing of such individuals within their communities and broke their authority within their own households, as was the case for P-1743.

Your Honours, let me now turn to the crime of persecution with respect to the extreme gravity of the crimes.

This Chamber convicted Mr Said of arresting, detaining and mistreating 39 perceived

supporters of the former president, François Bozizé, at the OCRB. As the top-ranking Seleka official, Mr Said instructed the OCRB Seleka under his command to torture and mistreat detainees, including by the arbatachar method. They verbally and physically abused detainees whilst they were being interrogated in the most violent of manner.

Your Honours, we submit, and you found, that Mr Said did not just oversee a detention centre, he directed it. Those arrested and detained there were targeted on multiple intersecting discriminatory grounds. Your Honours found this to be political, ethnic, religious and based on gender. At that time, if you were perceived to be a Bozizé supporter in Bangui, you had reason to fear. If you were Christian and from certain neighbourhoods of Bangui, such as Boy-Rabe, you had reason to fear. If you were a young man or even a boy or just male, in general, and perceived to be associated with the Bozizé -- with Bozizé or his regime, you had reason to fear.

And again, your Honours, you found that even women were -- who were perceived to be associated with men in the Central African Armed Forces, the FACA, or the presidential guards, the GPs, had reason to fear. And again, this intersecting discriminatory ground included those your Honours found who were from the Gbaya, the Mandja, and the Banda ethnic groups. These individuals also had reason to fear the Seleka. At least 39 victims, your Honours found, were targeted for all or any of these grounds cumulatively.

Now, allow me, your Honours, to briefly address you on the crime of torture. Again, this Chamber found that Mr Said committed this crime in relation to 22 victims. Torture, your Honour, your Honours, is a particular heinous crime of a very high gravity. Mr Said and his Seleka under his direct control physically and mentally mistreated these victims during arrest, transfer and detention at the OCRB.

The victims endured horrific physical and psychological trauma. They were beaten with metal instruments, batons, they were burnt and violently interrogated. As your Honours found, P-240 -- P-2400 was threatened by the Seleka with death. He was threatened by the use of a knife. Your Honours, victims were routinely subjected to cruel and degrading -- to cruel and degrading torture methods, such as the arbatachar. And you will recall, your Honours, that P-0547 described this extremely painful torture method and the manner in which they were tied as being "like taking cattle for slaughter."

Other detainees were whipped with horse-hide, beaten until they were unconscious and threatened throughout their detention at the OCRB.

The extent of the damage caused by this conduct is severe, multifaceted and long lasting. Your Honours, victims such as P-547 and 2519 left the OCRB with limb paralysis, complete loss of hand strength and chronic neurological injuries that plagued them to date.

This was not all, your Honours. The detainees were held in poor conditions that were cramped, dark, with insufficient ventilation and suffered continuous, severe physical and mental pain. Nine detainees or persons were forced to live, sleep, urinate and defecate in their own cell. They were covered in insects, denied any medical attention or adequate nutrition, subjecting them to untold physical and mental pain and suffering.

Your Honours, you found that this damage that was caused to these victims by Mr Said is enduring. Multiple victims were physically disabled, paralysed for months, and remained psychologically shattered to this day as a result of the torture or mistreatment they were subjected to by Mr Said. Their families were also impacted, your Honours. Families were economically ruined. Fathers were

permanently stripped of their dignity and standing in their communities as a result. There's no doubt, your Honours, that the crimes for which Mr Said is convicted are grave and should therefore attract a lengthy prison sentence.

I shall now address your Honours with respect to Mr Said's degree of participation and intent.

Your Honours found that Mr Said was a direct co-perpetrator. You found that Mr Said exercised control over the OCRB, the OCRB Seleka and the logistics involved. You found that Mr Said actively participated in the arrest, mistreatment and detention of detainees. You found that Mr Said ordered and attended the beatings and torture of detainees by OCRB Seleka. You found that Mr Said had a high degree of criminal intent.

Your Honours also found that he was extensively involved in the commission of the crimes for which you convicted him. For instance, you found that he was the *de facto* top-ranking official at the OCRB, he was in charge, and that everything regarding orders, reporting went directly through him. He held absolute operational control over the base, the personnel and the logistics. Every Seleka element at the OCRB was his direct subordinate and reported to him.

Your Honours, we submit that Mr Said was an omnipresent, hands-on, and active participant who directly drove the day-to-day mechanisms of illegal detention and physical abuse at the OCRB.

For instance, your Honours, the very identity cards issued to the Seleka elements at the OCRB bore his personal initials, "C" -- and this should not be shown to the public because it's got identifying information. It's now on the screens. Bore his personal initials "CMSAK", Colonel Mahamat Said Abdel Kani. These identity cards were issued in April, in May, in July, marking them out as his specialised unit.

Your Honours, we further submit that by maintaining access to and control over these essential logistical resources, Mr Said directly provisioned and sustained the OCRB Seleka elements operating under his command.

You found, your Honours, in the trial judgment that Mr Said's contribution to the common plan was essential, active and decisive. Instructions came from him; detainees could only be placed into a cell with his explicit knowledge and agreement. He even held the keys to the cells, your Honours. He prepared patrol lists, issued operational deployment orders, and personally participated in arrest operations, including, your Honours, that of the baker in incident N and Witness P-1289 in incident A.

In addition to his leading role and active involvement, Mr Said gave orders to Seleka -- to OCRB Seleka to beat detainees. He was also present when certain detainees were beaten and tortured by his subordinates.

Mr Said committed the charged crimes with the necessary intent and knowledge.

In view of Mr Said's role and functions at the OCRB, and the extent and level of his involvement in the commission of the crimes, there is no doubt, your Honours, that -- and you found this, that Mr Said played a significant and substantial role in the commission of the crimes for which he stands convicted. And this, we submit, lends itself to -- to a pronouncement of a -- of a very severe sentence.

I shall now address your Honours on the multiple aggravating factors that exist in this case. And we've detailed this from paragraph 54 onwards of the Prosecution brief.

Your Honours, Mr Said abused his power under Rule 145(2)(b)(ii). He did so as the -- as the *de facto* head of an official state unit, the OCRB. He abused his power, he abused his position by transforming a public facility into a place where detainees

were subjected to serious mistreatment. Trial Judgment, 1773.

Your Honours, we've got references of most of the citations I've made to the judgment and we can provide them to you.

Your Honours, he actively abused his operational capacity by supplying weapons, by supplying uniforms, by supplying food and identification cards to the specialised OCRB Seleka units that were used to carry out the physical abuses.

Mr Said ordered the arrest, detention and mistreatment of detainees, especially those found to be or perceived to be Bozizé supporters. Mr Said only allowed detainees to come out of their cells once or twice a day for a maximum of 30 minutes. Mr Said did not set up any system to provide food or water for the detainees. He was involved in the mistreatment of detainees at the OCRB and ordered the beating of detainees -- of some of the detainees. Your Honours, Mr Said did not do anything -- he did not do anything to stop the torture occurring at OCRB or addressing any of the torture allegations which were brought -- which were brought to his attention. Rather, Mr Said extorted money, he demanded ransom from members of -- from family members of some of the detainees.

Now, the victims held at the OCRB were victims with particular -- they were vulnerable and defenceless individuals. They were detained unarmed and had no protection whatsoever. They were subjected to coercive methods and dire conditions of detention.

During their unlawful confinement, some were stripped of their clothing, handcuffed for weeks on end, and completely cut off from legal representation or their families.

Your Honours, the cells in the courtyard were at times so overcrowded, to such an extent that the detainees had difficulty in breathing, that the detainees had to take turns to even lie down. As stated previously, they were denied adequate food,

water and medical assistance. As a direct consequence of these calculated acts, the victims sustained severe and enduring physical and psychological injuries.

As an aggravating factor, your Honours, we say that the commission of the crimes were done with a particular cruelty. This is demonstrated by the manner and means employed by Mr Said and his co-perpetrators in the commission of the crimes. The arrests, your Honour -- your Honours, the arrests were violent and brutal. For example, victims were shot at, victims were punched, victims were beaten and burnt by the OCRB Seleka. And this did not stop here. Once these detainees were brought to the OCRB, they were routinely tortured, routinely bound the arbatachar way, whipped, dragged in the mud, beaten until they defecated on themselves or lost consciousness. Detainees sat with dead bodies in overcrowded cells. Detainees were beaten in front of their wives and children, purely for the purpose of humiliating them.

P-547, for instance, described how he was violently slapped across the face, tied up arbatachar, hung on a wall -- hung on a fence with barbed wire and then beaten with rifle butts and threatened with death as he was interrogated violently.

Your Honours, in both the courtyard cells and the underground cell, detainees experienced inhumane conditions. They had no access to water, food, toilets and clean air. In these ways, your Honours, it's our submission that the detainees were continuously mistreated physically and psychologically, enduring unbearable unheard of harm.

I shall now turn to mitigating circumstances or the lack, in our submission, of any mitigating circumstances, because, your Honours, even if they existed, they are outweighed by the aggravating factors -- the multiple aggravating factors in this case.

The Defence has advanced several arguments in an effort to mitigate the sentence.

Starting with the individual circumstances of Mr Said in this case, it's our submission, in a holistic manner, none are mitigating.

His medical condition is not a mitigating factor in the present case. Your Honours, a convicted person's mental or physical health may - and we emphasise this and invite your Honours to consider this when you deliberate on the appropriate sentence - may be taken into account as a mitigating factor only in rare or exceptional circumstances. In this case, there is no exceptional circumstances justifying any mitigation on health or medical grounds.

We submit, your Honours, that any health issues experienced by Mr Said should be considered in the execution of his sentence rather than through a -- rather than through a reduction in its length. This Court has established in the Bemba and Ongwen sentencing judgments that only in rare or exceptional cases, such as a very serious health condition or terminal disease, can a convicted person's mental or physical health be taken into account as a mitigating circumstance.

Your Honours, we have provided those authorities in our list of materials for the Court's assistance.

Your Honours, Mr Said's health was assessed by an independent medical panel between January and September of 2023, and this Chamber subsequently found him fit to stand trial.

Throughout the proceeding, this Chamber ensured that Mr Said's treatment and recovery were accommodated. The Chamber staggered the hearings. In fact, we sat half day in the accommodation by the Chamber to ensure the quick and speedy recovery of Mr Said, taking his health situation into account.

And this was evident, your Honours, that his health condition was not impaired. Mr Said was able to participate in the remainder of the trial, including in the closing

statements.

Therefore, we submit that in this case, your Honours, there are no exceptional circumstances justifying any mitigation on health or medical grounds.

Now, turning to his family situation. That, too, is not a unique circumstance that justifies a reduction in sentence. There is no exceptional circumstances in his family situation to justify a reduction in sentence.

The Defence also brings forth his prior -- the Defence also brings forth as a mitigating factor that the prior conditions in the Central African Republic are now a mitigating factor for consideration with respect to Mr Said. It is not correct, it is not true and it is not borne out, more importantly by the evidence, that the conditions within the OCRB was just an inherited problem for Mr Said. He simply did not inherit a problematic situation.

This Chamber found that the arrival of the Seleka appended any regular state practice. This Chamber found that the pre-existing civil and judicial checking mechanisms were crippled and stripped of decision-making power. This is all detailed in the -- in the judgment rendered by the Chamber.

Your Honours, Mr Said was directly involved in or ordered the detention, the mistreatment, everything that went on against the individuals illegally detained at the OCRB. He therefore cannot blame any prior conditions of any detention facility in the Central Africa and use that as mitigating factor. It's our submission this should be rejected.

Additionally, Madam President, your Honours, the Defence has also brought up the conduct of others as a mitigating factor.

This, we also submit, should be rejected. The fact that other people and entities may have also committed crimes or violated rights of detainees, the fact that these people

allegedly have never been investigated or prosecuted is irrelevant - and we emphasise this, your Honours, and invite you to consider this - is irrelevant to the determination of the appropriate sentence since the conduct of others is not a mitigating circumstance.

The Defence also raises the fact that he has no prior convictions as a mitigating factor. True, this is a fact that may be considered in sentencing. However, Madam President, your Honours, it is established in the jurisprudence of this Court from Lubanga to Ntaganda that a lack of prior criminal convictions carries no mitigating weight when an individual stands convicted of executing a widespread and systematic campaign of crimes against humanity.

Therefore, your Honours, we submit that this is not a mitigating factor during your determination of the sentence against Mr Said.

And, your Honours, Mr Said has not expressed any remorse for his crimes. Mr Said has not expressed any remorse of his crimes to the victims, to the communities that are affected. This speaks *a contrario* to his behaviour.

The courtroom behaviour of Mr Said has also been put forward as a mitigating factor. This, we submit, is not mitigating. Maintaining proper decorum in a courtroom and following the rules of a detention centre is the expected baseline behaviour of any individual before a court of law. It is expected that you behave well in the proper decorum.

In fact, your Honours -- and I would request your indulgence to move to a very brief private session.

(Counsel confers)

MS MAKWAIA: [10:19:05] I'm told the matter I'm about to address is actually in the public, so there's no need for -- my apologies.

In fact, if anything, Madam President, your Honours, his decorum in the court is contrasted -- his alleged good behaviour in the court -- in the court is contrasted by his violation of the Court's orders and his disclosure of confidential information that he undertook. This, your Honours, is also detailed in our brief, so I won't give any further details. If anything, Mr Said's violation of the Court orders and his disclosure of confidential information show that no mitigation for good behaviour is warranted.

I shall now move to address you with respect to some of the Defence assertions raised in their Sentencing Brief.

Your Honours, the Defence takes issue with the seriousness of the crimes for which Mr Said was convicted. It argues that the charges for which Mr Said was convicted do not fall within the categories of the most serious crimes within the Court's jurisdiction since they do not include murder or rape, among others.

First of all, your Honours, there is no hierarchy of crimes at the International Criminal Court. There is no hierarchy of crimes within the Rome Statute that governs the conduct of proceedings here.

Secondly, the Defence has already raised this issue and it was ruled and settled by the Appeals Chamber that all the charges for which Mr Said is charged in this case, if proven, are very serious and may attract a lengthy sentence even if, and I emphasise, even if they do not include murder or rape. And here, your Honours, I would refer you to the Appeals Chamber decision ICC-01/14-01/21-318 at paragraph 46.

It also takes issue with the alleged small number of incidents and victims. It argues that because this case has a small number of victims, it falls into a lower tier of seriousness. Your Honours, we submit that this is a dangerous and flawed argument and we invite you to disregard it. We say so because it has also been

established by this Court's jurisprudence in Blé Goudé and also in Abu Garda that the gravity of an offence under Rule 145(1)(c) is not measured by a restrictive quantitative formula alone. Rather, the assessment mandates a holistic evaluation of both a quantitative and a qualitative standpoint.

And additionally, your Honours, the prohibition of torture is a norm of *jus cogens* that protects the absolute core of human dignity. Its gravity in international law is therefore supreme.

Turning to the point of the lack of clinical documentation, the Defence also argues that due to lack of clinical documentation, the long-term injuries of the victims are legally unproven.

Again, this is a flawed reading of the facts of this case by the Defence, and the established law.

First of all, your Honours, no medical evidence is required to prove injuries beyond reasonable doubt.

Second, this is an attempt by the Defence to challenge the factual findings of this Court through the back door. This Chamber has found that victims suffered long-term injuries.

And third, it is not surprising, your Honours, if the Prosecution may say so, in the circumstances of this case, that no contemporaneous medical records exist since Mr Said systematically barred medical professionals and independent prosecutors from having access to the detainees held at the OCRB. The judgment reflects this. The evidence presented is replete with this fact.

With respect to the alleged short charged period, also raised in the Defence brief, your Honours, we submit this is also a flawed understanding. Contrary to what the Defence contends, again with respect to the temporal scope of the charged crimes,

what matters is the qualitative gravity of the crimes and not the temporal period. Your Honours, from May to August 2013, the OCRB under Mr Said's command functioned as a highly efficient machine of terror. Detainees were brought in daily without warrants. Detainees were stripped of their undergarments, handcuffed, beaten, tortured. Therefore, we submit this issue should also be rejected.

The Defence also argues that Mr Said had limited degree of participation and intention. It states that the absence -- your Honours, Mr Said's absence from the OCRB for a limited period, and his lack of knowledge of the specific details of how these crimes were committed, does not point to a lesser degree of participation. And here, your Honours, we refer you to the Ntaganda appeals judgment, ICC-01/04-02/06 at paragraph 45, which underpins this argument.

Mr Said's Defence also raise the role of Mr Said at the OCRB. They want this Court to believe that Mr Said was a peripheral "quartermaster" or a secondary administrative "resource person". This is contrasted by the findings of this Chamber in the judgment that you rendered.

Your Honours found Mr Said's responsibility is based on the contributions he made to the crimes for which you convicted him. He was the *de facto* top-ranking Seleka official at the OCRB and not this mere resource person or a quartermaster that they would like to portray him as.

In conclusion, your Honours, before I put our request for the sentence, I would like to conclude by referring your Honours to what you stated in the judgment you rendered on 23 September this year at paragraph 1777, and I quote:

"Mr Said's actions [...] constitute an individual contribution within the framework of the common plan such that without it, the crimes could not have been committed or would have been committed in a significantly different way. Mr Said was in charge

of the OCRB, had control over the OCRB Seleka stationed there, and [he] issued orders in respect of the arrest, detention and mistreatment of detainees, in particular those perceived to be Bozizé supporters. Mr Said directly participated in patrols, in the interrogation and mistreatment of detainees at the OCRB and was directly involved in a number of charged incidents. Accordingly, the Chamber is satisfied, beyond reasonable doubt, that Mr Said made an essential contribution to the common plan that resulted in the commission of the charged crimes at the OCRB." Closed quote.

Madam President, your Honours, this Chamber found that the evidence presented proved beyond a reasonable doubt that Mr Said criminally participated in a campaign of violence targeting civilians perceived as pro-Bozizé between May and August 2013. Your Honours, that evidence demands justice. It demands accountability. We ask your Honours to look holistically at the gravity of the conduct, the depth of victimisation, and the substantial intent of the perpetrator, Mr Said.

Considering the high degree of direct participation and intent displayed by Mr Said, the presence of multiple aggravating factors, the absence of mitigating circumstances, we respectfully submit that the Chamber should impose a joint sentence of at least 20 years of imprisonment against Mr Said.

With that, I conclude the Prosecution's submissions, your Honours, and I thank you for your attention. Thank you.

PRESIDING JUDGE SAMBA: [10:31:19] Thank you very much, Counsel.

And thanks to the Prosecution team.

We will now have a short break and we'll come back in 30 minutes. So I rise the Court for 30 minutes, please.

THE COURT USHER: [10:31:35] All rise.

(Recess taken at 10.31 a.m.)

(Upon resuming in open session at 11.04 a.m.)

THE COURT USHER: [11:04:27] All rise.

Please be seated.

PRESIDING JUDGE SAMBA: [11:04:58] Good morning, again, everyone.

We are going to ask the Legal Representative for the Victims, Ms Pellet, to make her submissions on behalf of the victims of the crime.

MS PELLET: [11:05:16](Interpretation) Thank you, Madam President.

Madam President, your Honours, we have already submitted detailed filings last October 29, and we are not going to present a summary of those filings. The Chamber is called upon to determine the sentence of Mr Said. In this regard, we want to draw your attention to the human dimension of the crimes for which he was found guilty and the deep consequences that these crimes have on them and their families. It is essential that, in the determination of the sentence, the Chamber should bear in mind the fact that these crimes are not limited to legal characterisations. They have concrete consequences on human lives, concrete victims, and not abstract entities, as the Prosecutor said.

I shall be brief by necessity, as well as by choice. My colleague will come back on some of their observations submitted by the Defence in their filings of 29 October.

Madam President, your Honours, for the victims, those who are participating in the proceedings and all the others, this hearing is not simply an additional stage, nor even the last stage, of the trial. It is a new opportunity for them to raise awareness about their suffering, to bring to your knowledge the scope of the consequences of the crimes, and especially to have their voices heard as the Chamber prepares to determine the sentence.

As a result of the crimes committed by Mr Said, entire lives have been up-ended, families broken, victims -- or, rather, injuries that are not healing, and trauma that is as distressing today as at the time it happened.

The victims are not motivated by any spirit of vengeance, they are simply waiting to see that the sentence that you impose is proportionate to the crimes committed by Mr Said. That is, a heavy but fair sentence.

They also are hopeful that such a sentence shall fully serve its deterrent function. That is, it should prevent Mr Said from reoffending and discourage anyone to commit similar crimes. The sentence is equally meant to protect future generations and to contribute to us putting an end to impunity, in a context where the security situation in the CAR is still volatile.

The first reality that the victims would like to recall to the Chamber is the persistence of their suffering, both physical and psychological.

For many of the victims, the end of detention did not signify the end of violence, it simply marked the commencement of another form of suffering. That is, continuing to live with the after-effects of the crimes suffered.

Several victims continue to suffer from chronic pain and physical disabilities as a result of the torture and mistreatment they were subjected to at the OCRB, and their health problems have worsened with the passage of time. For some of them, some physical harm has appeared after several years. For others, the consequences have affected their private and family life, especially their capacity to nurture and sustain relationships and to lead a dignified life.

Madam President, your Honours, the consequences of the crimes are not limited solely to the violence of the acts perpetrated at the time of the events. They equally encompass everything that the victims can no longer do today, to everything that they

have lost, and to all the difficulties that they continue to face.

In fact, the physical suffering is compounded by psychological suffering, which is just as serious. Several victims have explained that the memories of their detention and the acts of violence suffered come flooding back to them on a regular basis, sometimes with an intensity that seems as if the crimes just happened yesterday.

They continue to live bouts of trauma and distress. They are still fearful when they come across people in uniform or when they see any weapons. Others are constantly hypervigilant, fearing to be rearrested 13 years after the facts.

In other words, Madam President, your Honours, although they are out of detention, they continue to serve a life sentence. The feeling of insecurity continues to dog them. It is imperative for the Chamber to factor that in at the time of determining the sentence.

The second reality, which is just as painful, relates to the consequences of the crimes on the families of the victims. In reality, the suffering is not limited only to the specific individuals who were detained and mistreated, they also deeply affected their kith and kin, sometimes bringing about irreparable losses.

Some victims lost loved ones either directly as a result of their detention, or either because members of their families were not able to support or bear the consequences of their imprisonment.

This suffering extends to the children who are growing up without their parents, the spouses who must assume responsibility for their families, parents who have lost their children, and, on a broader scale, to loved ones who must continue living with the consequences of these events.

Other victims have lost their jobs, their means of subsistence and their ability to cater to the needs of their families.

So the crimes committed by Mr Said robbed several families of their futures, and some of them are unable to repair those losses.

Madam President, your Honours, the third reality that we want to draw your attention to concerns the particularly undignified conditions in which the victims were detained, but also the deep sense of injustice that it arouses in them to this day. The victims remember the overcrowding, the lack, the humiliation and the total absence of consideration for their dignity which characterised their detention at the OCRB.

In this context, some of them feel deep bitterness when they reflect on the conditions in which Mr Said is being detained, especially when they compare them to what they lived through. This contrast is even more difficult to accept because they continue, even today, to bear the consequences of the act of violence they suffered.

This comparison in no way reflects the desire of the victims to see the Court impose the same level of suffering on Mr Said. Rather, they wish the Court to take into account the gravity of their suffering.

Madam President, your Honours, I would be remiss if I were only to talk of the victims in terms of the suffering they endured and of its consequences. A fourth reality merits to be underscored: Mr Said's conviction for the victims constituted a significant moment of recognition.

Now, the verdict of 23 September in fact marked a first step in the process of acknowledging their status as victims and the crimes they endured.

Some victims consider themselves fortunate to have survived the crimes they suffered and to have had the possibility, the opportunity, to contribute to the conviction of Mr Said. One victim even told us they felt wealthy, not in material terms, but because they were still alive and had had the opportunity to be heard before the

Chamber, whereas others consider that the conviction brings some measure of satisfaction in memory of all those who lost their lives in the CAR, so that their death is not in vain and constitutes in fact a triumph over silence and being forgotten.

It is nevertheless important to underscore that victims do not necessarily all agree on the question of sentencing. Some have expressed the wish to see Mr Said serve a long prison sentence, with some suggesting sentences as long as 30 years, whereas others leave it to the appreciation of the Court, of the Chamber, to determine the appropriate sentence, recognising that this is first and foremost a judicial decision.

But beyond the differences on the sentence, one element clearly emerges: victims want to see a sentence that reflects the gravity of the crimes committed by Mr Said and the extent of the suffering they endured.

It is important to note at this point that victims -- that we should not -- you should be mindful of victims who have expressed some frustration with respect to their recognition and their situation in the judgment. This frustration should also be heard and understood, because it attests to the expectations of victims from the justice system. It recalls that there may be a sense of frustration that remains.

Madam President, your Honours, the fifth and final reality we wish to bring to your attention is that the sentence you will be rendering will take on an importance that goes beyond the individual situation of Mr Said.

Your decision shall be observed by survivors, the families of those who lost their lives, and by others, other persons, who were themselves subjected to violence in the Central African Republic.

For the victims, this sentence shall send an essential message: persons who commit crimes against civilians in the Central African Republic must answer for their acts.

That these crimes cannot go unpunished and that the suffering of victims is neither

ignored nor forgotten.

Many of those who suffered the violence were not political leaders, nor were they civil servants, nor were they combatants. They were ordinary Central African citizens, men and women, trying to make a living and to provide for their families, to live a normal life.

Yet, they found themselves in detention, tortured and subjected to other forms of mistreatment, the consequences of which, as I said, they continue to suffer to this day.

Victims hope that Mr Said's conviction and the sentence you are to render shall demonstrate that such crimes require a judicial response and that they cannot go unpunished. They also hope that your decision will encourage other survivors, including those affected by the crimes associated with Mr Nouradine, Adam, to break their silence and testify about the horrors they experienced. As such, the victims' expectations transcend their own particular situations. Victims expect that the crimes -- that the sentence, rather, that you will be pronouncing shall be commensurate with the gravity of the crimes and the scale of the harm they suffered, their families suffered and that this shall contribute to restoring trust in the justice system, combat impunity and prevent recurrence of these crimes.

Madam President, your Honours, victims are not calling on the Court to believe in any way that the sentence will remedy what they have lost. No sentence can bring back a father, a husband, a cousin or a loved one. No sentence can restore a lost childhood, erase years of suffering, heal physical wounds or do away with the memory of torture and humiliation. No sentence can give back to these victims the lives they would have led had these crimes never been committed.

Lastly, their scars are permanent. This is perhaps the most important element that the Chamber must bear in mind today. The victims will continue to live with those

scars well after the closing of these proceedings. For some victims, conviction has brought some measure of relief. For others, the pain and frustration remain profound. For many, they live with both sentiments, but all deserve to have their experiences considered with the greatest of care as the Chamber prepares to determine a sentence.

For this reason, we respectfully invite the Chamber to fully consider these five realities in determining the sentence and to render a sentence that fully reflects the gravity of the crimes that Mr Said was found guilty of, and to take cognisance of the extent of the harm caused with respect for the applicable principles in sentencing.

Because beyond the individual sentence for Mr Said, this process is about upholding a fundamental principle. The lives and dignity of Central African citizens have value. The suffering they endured deserves to be acknowledged and the crimes committed against them cannot go unaddressed.

Madam President, at this stage, I would be grateful if you would give the floor to Adeline Bedoucha for the next part of the observations on behalf of the victims, and she will be speaking in English.

PRESIDING JUDGE SAMBA: [11:24:16] Go on counsel, appreciating that you have about six minutes and a few seconds. Thank you.

MS BEDOUCHA: [11:24:24] Good morning, Madam President, your Honours. I didn't hear well. Did I understand correctly that you are saying there are six minutes left?

PRESIDING JUDGE SAMBA: [11:24:33] Eleven minutes.

MS BEDOUCHA: [11:24:40] Okay. Thank you, Madam President. That sounds better.

Good morning, Madam President, your Honours. I will limit my observations to a

number of issues arising out of the Defence written submissions and that we did not fully anticipate in ours.

For the avoidance of any doubt, I clarify that our silence on other matters does not mean that we accept the Defence submission.

I will start with a few observations concerning the legal framework. We agree with the Defence that your Honours have considerable discretion in deciding on the appropriate sentence. We also agree that this discretion is constrained by Article 21(3) of the Statute and that the determination of the sentence must be consistent with Mr Said's internationally recognised human rights.

Your Honours, victims also have internationally recognised human rights, and among these are the rights to access justice and the right to effective remedies. Therefore, we respectfully request that your Honour balance those rights with that of Mr Said's.

This leads me to our second observation on the Defence submission on the legal framework, and it concerns the objectives of sentencing and specifically the necessity to pronounce a sentence that is retributive, deterrent, while not obliterating all possibility of reintegration and ultimately reconciliation.

The overwhelming majority of the victims still live in Central African Republic. They have no higher aspiration than moving forward and living in peace in their own country. They do agree that the sentence should ultimately serve the broader purpose of reconciliation. They do accept that a disproportionate sentence, such as life imprisonment, would ultimately not serve this purpose. However, a disproportionately short sentence would equally obliterate reconciliation, as well as be devoid of any deterrent effect.

In this vein, we reiterate that the sentencing proceedings are not the moment to dwell into the reintegration perspective of the convicted person. It is primarily the

moment to punish and deter. Reintegration prospects should remain a secondary consideration and we refer in this regard to footnote 14 of our written submissions. Mr Said's prospect of reintegration might or might not be promising. We accept that it is a relevant circumstance to consider for the evaluation of the sentence. However, we do not accept that it is a circumstance warranting shortening the time he has to serve in detention as a result of the crimes he committed.

One last observation concerning the legal framework, and specifically on the inherent gravity of the crimes committed by Mr Said. Unlike what he argues at paragraphs 72 to 75 of his written observations, the crimes he committed have been considered amongst the most serious crimes by the Court. We refer in this regard to paragraph 74 of our written submissions concerning the fact that the crime of torture has been considered as grave as the crime of murder. More generally, we also refer to the criteria we proposed at paragraph 50 of our written observations to evaluate the gravity *in abstracto*.

What matters most, in any event, is the evaluation of the gravity of the crimes *in concreto*.

I will now turn to a few observations on the Defence submission concerning Mr Said's level of participation and intent. At paragraph 27 of its written submission, the Defence indicates that, and I quote: "Concerning the role of Mr Said, the judgment shows the extremely limited to inexistent degree of participation of Mr Said at many levels."

In support of this position, the Defence litigates findings already made in the judgment by referring to portions of testimony seemingly demonstrating that Mr Said had a very limited involvement in the crimes. We will limit ourselves to refer to paragraphs 37 to 47 of our written observations and recall that the judgment is replete

of findings establishing beyond reasonable doubt that Mr Said was in charge of the OCRB, that he had control over the detention and release of the detainees and that he was informed and even participated in the mistreatment of detainees.

We also underline that what matters is his participation to and intent in committing the crimes. As the Defence correctly underlined, Mr Said will be sentenced for his own actions only. Whether he was heavily involved or not in other events that happened in Central African Republic is irrelevant. Whether other individuals were more or equally involved is also irrelevant and we refer in this regard to paragraph 111 of our written observations.

I will now address a few points relating to Mr Said's medical conditions and what constitutes a mitigating circumstance. Victims fully accept that in determining the appropriate sentence, the judges must take into account the personal circumstances of Mr Said. This individualisation of the sentence is precisely what distinguishes a justice system based on the rule of law from an arbitrary system.

What that could mean, for instance, at the stage of enforcement is that his preference for a French-speaking environment is taken into account. What that does not mean, however, is that all his personal circumstances are necessarily mitigating.

Notably, the Defence requests that Mr Said's health should be treated as a mitigating circumstance. We disagree. His health is undoubtedly a relevant circumstance; it is not a mitigating circumstance. In 2023, Mr Said did go through a medical condition. It was taken into account at the time, and his conditions of detention were adjusted appropriately. There is no doubt that it will continue to be taken into account, if necessary, and as appropriate, based on medical advice going forward.

Mr Said survived and recovered. What he went through was truly terrible and he does deserve our compassion. What it does not deserve, however, is reducing his

sentence. Mr Said's health at the time of the commission of the crimes, and at present, is not so exceptional that it warrants mitigation of his sentence. Should Mr Said's health deteriorate, it will be a matter to be addressed and taken into account concerning the enforcement of the sentence.

In support of his argument that his health should be treated as mitigating, the Defence alleges on the one hand a number of mistreatments that Mr Said purportedly suffered in detention, and, on the other hand, that Mr Said's cooperation with the Court was exceptional. Victims understand and accept that Mr Said is entitled to present his perspective and his arguments in support of the most favourable sentence. What is harder to accept, however, is Mr Said's allegation that he was poorly treated in the detention centre here.

Assuming this is truly how Mr Said experienced his own detention, it makes it all the more puzzling that he could not offer any word of compassion for what the victims went through during their detention.

In his submissions, Mr Said goes in quite some detail on the purportedly lacking physical and psychological support he received while in detention. This attitude has a profoundly distressing impact on victims who continue to feel victimised by Mr Said. However, consistent with rule 145 of the rules, we, unfortunately, cannot request that it is treated as an aggravating circumstance. What we do request, however, is that the Chamber takes into account this attitude when evaluating Mr Said's reintegration prospects, and his alleged prospective positive contribution to the broader goal of reconciliation.

As for the remaining points, we have taken note of the Registry's submission filed yesterday, and we leave it to your Honours to appreciate how to take into account Mr Said's gross misrepresentation of the reality of his detention.

PRESIDING JUDGE SAMBA: [11:35:22] I will give you one minute to round up, counsel.

MS BEDOUCHA: [11:35:25] Your Honour, may we ask for your indulgence to have two extra minutes? I am almost done and Ms Pellet needs one minute for some conclusive remarks.

PRESIDING JUDGE SAMBA: [11:35:35] Two minutes then.

MS BEDOUCHA: [11:35:38] Okay. Concerning Mr Said's allegedly exceptional cooperation, while there is some room to evaluate what types of facts are considered exceptional, attending the hearing does not qualify as such. When he was ill, the trial was suspended.

Concerning the Defence arguments according to which the scope of the case is, I quote, "very limited", we refer to our written submissions and underline, in any event, that comparison with other cases before this Court is of very limited use.

Lastly, and then I will hand the floor to Ms Pellet, on the absence of evidence of the harm, I will raise two points. First, all incidents but incident G encompassed a conviction for the crime of other inhumane acts. The very fact that Mr Said was convicted for this crime already shows that the Chamber found beyond reasonable doubt that victims suffered great suffering or serious injury.

Second, the judgment is replete of findings about the harm suffered by the victims, including concerning incident G. And I will refer to paragraph 954 of the judgment.

I will then conclude, and kindly request that you hand the floor to Ms Pellet for one conclusive remark

PRESIDING JUDGE SAMBA: [11:37:10] Ms Pellet, you have one minute, please.

MS PELLET: [11:37:14](Interpretation) Thank you, Madam President.

Madam President, your Honours, as I said, for the victims, justice cannot erase the

past, but it can recognise the truth, it can recognise their suffering, it can reassert the dignity of those who survived and honour the memory of those who are no longer with us. It can also contribute to restoring even partially their faith, the faith of victims, in the possibility that justice will be done. And this is why we respectfully request that you bear in mind the views and concerns of victims when you withdraw to deliberate on the sentence, and that you render a heavy but just sentence towards Mr Said, in keeping with the gravity of the crimes and scale of the harm caused.

This concludes the observations of the representatives of victims on the sentence. I thank you for your attention.

PRESIDING JUDGE SAMBA: [11:38:28] Thank you very much, Ms Pellet, and thank you very much, Ms Bedoucha, for your submissions on behalf of the victims. And, of course, the Chamber will take into consideration the harm suffered by the victims as a central matter when we consider the sentencing.

I thank all of you for today's submissions -- that is, the Prosecution and -- well, I have thanked the representatives of the victims. And, with that, I will adjourn today's hearing.

We will meet tomorrow again at 9.30, when we shall hear counsel for the Defence on behalf of Mr Said.

So, with that, I rise the Court and we will meet tomorrow. Thank you.

THE COURT USHER: [11:39:15] All rise.

(The hearing ends in open session at 11.39 a.m.)